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House of Representatives

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. HASTERT].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore, laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 30, 1995.

I hereby designate the Honorable J. DENNIS HASTERT to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Remind us, O God, that along with the changes of the times, there is also the unchanging; that along with all the transient values, there are also eternal values; that along with limited relationships, there are also abiding friendships; that along with all the new words of each day, there is also Your enduring Word. For all Your good gifts and for Your continuing presence with us in every moment of life, we offer these words of thanksgiving and praise. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. MURTHA. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MURTHA. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 305, nays 69, answered ''present'' 3, not voting 57, as follows:

[Roll No. 465]

YEAS—305

Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Barton
Bass
Bateman
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Browder
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Conyers
Cooley
Cox
Coyne
Cramer
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Doggett
Dooley
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Everett
Ewing
Farr
Fields (LA)
Flake
Flanagan
Foley
Forbes
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Ganske
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefner
Heineman
Hilleary
Hobson
Holden
Horn
Houghton
Hoyer
Hunter
Hyde
Inglis
Istook
Jackson-Lee
Johnson (CT)
Johnson, Sam
Johnston
Jones
Kanjorski
Kelly
Kennedy (MA)
Kennelly
Kildee
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Luther
Maloney
Manzullo
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
Meehan
Metcalf
Meyers
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Molinari
Montgomery
Moran
Morella
Murtha
Myers
Nethercutt
Neumann
Norwood
Nussle
Olver
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Ramstad
Reed
Regula
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Roybal-Allard
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (NC)
Tejeda
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Vento
Vucanovich
Walker
Wamp
Ward
Watt (NC)
Waxman
Weldon (PA)
Weller
White
Whitfield
Wicker

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Wolf Wyden Young (FL)
Woolsey Wynn Zeliff

NAYS—69

Baldacci Hall (OH) Ney
Brown (CA) Hastings (FL) Obey
Burton Hefley Payne (NJ)
Chapman Hilliard Pickett
Clay Hoekstra Rahall
Clayton Jacobs Rangel
Clyburn Jefferson Richardson
Coleman Johnson (SD) Rush
Costello Johnson, E. B. Sabo
Crane Kaptur Sawyer
DeFazio Kleczka Schroeder
Dingell LaFalce Scott
Durbin Levin Skaggs
Evans Lewis (GA) Slaughter
Fattah Lincoln Stockman
Fawell Lowey Thompson
Fazio McKinney Thornton
Filner McNulty Velazquez
Foglietta Meek Visclosky
Ford Menendez Volkmer
Geren Mineta Wise
Gillmor Mollohan Yates
Green Neal Zimmer

ANSWERED ''PRESENT''—3

Edwards Harman Nadler

NOT VOTING—57

Abercrombie Hinchey Quinn
Baker (CA) Hoke Radanovich
Bartlett Hostettler Reynolds
Becerra Hutchinson Riggs
Bono Kasich Rose
Bryant (TX) Kennedy (RI) Sanders
Chenoweth Klink Serrano
Collins (IL) Leach Skelton
Collins (MI) Lofgren Stark
Dellums Manton Taylor (MS)
Doolittle Markey Tucker
Dornan McCrery Waldholtz
Fields (TX) Mfume Walsh
Fowler Moakley Waters
Gallegly Moorhead Watts (OK)
Gekas Myrick Weldon (FL)
Gutierrez Oberstar Williams
Hayes Owens Wilson
Herger Pombo Young (AK)

☐ 1021

Mrs. MEEK of Florida changed her vote from ''yea'' to ''nay.''

Mr. DIXON, Ms. DANNER, and Ms. RIVERS changed their vote from ''nay'' to ''yea.''

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. HASTERT). Will the gentleman from New York [Mr. SOLOMON] come forward and lead the House in the Pledge of Allegiance.

Mr. SOLOMON. Mr. Speaker, if the House would come to order, this week the House passed a constitutional amendment with strong bipartisan support to pledge allegiance to that flag. Would the gentleman from Ohio [Mr. TRAFICANT] come over here in a bipartisan effort and join me in leading the Pledge of Allegiance.

The SPEAKER pro tempore. The gentleman from New York was recognized to lead the House in the Pledge.

Mr. SOLOMON led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MOTION TO ADJOURN

Mr. WISE. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from West Virginia [Mr. WISE].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. WISE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 130, nays 263, not voting 41, as follows:

[Roll No. 466]

YEAS—130

Ackerman Ford Olver
Andrews Frank (MA) Owens
Baesler Frost Pallone
Baldacci Furse Pastor
Barcia Gejdenson Payne (NJ)
Bentsen Gephardt Payne (VA)
Berman Gutierrez Peterson (FL)
Bevill Hall (OH) Pomeroy
Bishop Harman Rangel
Bonior Hastings (FL) Reed
Boucher Hilliard Richardson
Browder Holden Rivers
Brown (CA) Hoyer Roybal-Allard
Brown (FL) Jackson-Lee Rush
Brown (OH) Johnson (SD) Sabo
Clay Johnson, E. B. Sanders
Clayton Kanjorski Sawyer
Clyburn Kaptur Schroeder
Coleman Kennedy (MA) Schumer
Collins (IL) Kennelly Scott
Collins (MI) LaFalce Sisisky
Conyers Lantos Skaggs
Coyne Lewis (GA) Slaughter
Danner Lofgren Spratt
de la Garza Lowey Stark
DeFazio Maloney Stockman
DeLauro Markey Stokes
Deutsch Mascara Studds
Dicks Matsui Thompson
Dingell McCarthy Torres
Dixon McDermott Torricelli
Dooley McKinney Towns
Durbin McNulty Tucker
Engel Meehan Velazquez
Ensign Meek Vento
Eshoo Miller (CA) Volkmer
Evans Mineta Ward
Farr Mink Watt (NC)
Fattah Mollohan Wise
Fazio Moran Woolsey
Fields (LA) Nadler Wynn
Filner Neal Yates
Flake Oberstar
Foglietta Obey

NAYS—263

Allard Burton Diaz-Balart
Archer Buyer Dickey
Armey Callahan Doggett
Bachus Calvert Doolittle
Baker (LA) Camp Doyle
Ballenger Canady Dreier
Barr Cardin Duncan
Barrett (NE) Castle Dunn
Barrett (WI) Chabot Edwards
Bartlett Chambliss Ehlers
Barton Chapman Ehrlich
Bass Christensen Emerson
Bateman Chrysler English
Beilenson Clement Everett
Bereuter Clinger Ewing
Bilbray Coble Fawell
Bilirakis Collins (GA) Foley
Bliley Combest Forbes
Blute Cooley Fox
Boehlert Costello Franks (CT)
Boehner Cox Franks (NJ)
Bonilla Crane Frelinghuysen
Borski Crapo Frisa
Brewster Cremeans Funderburk
Brownback Cubin Ganske
Bryant (TN) Cunningham Gekas
Bunn Davis Geren
Bunning Deal Gilchrest
Burr DeLay Gillmor
Gilman Linder Ros-Lehtinen
Gonzalez Lipinski Rose
Goodlatte Livingston Roth
Goodling LoBiondo Roukema
Gordon Longley Royce
Goss Lucas Salmon
Graham Luther Sanford
Green Manzullo Saxton
Greenwood Martini Scarborough
Gunderson McCollum Schaefer
Gutknecht McCrery Schiff
Hall (TX) McDade Seastrand
Hamilton McHale Sensenbrenner
Hancock McHugh Shadegg
Hansen McInnis Shaw
Hastert McIntosh Shays
Hastings (WA) McKeon Shuster
Hayes Menendez Skeen
Hayworth Metcalf Smith (MI)
Hefley Meyers Smith (TX)
Hefner Mica Smith (WA)
Heineman Miller (FL) Solomon
Herger Minge Souder
Hilleary Molinari Spence
Hobson Montgomery Stearns
Hoekstra Morella Stenholm
Horn Murtha Stump
Hostettler Myers Stupak
Houghton Myrick Talent
Hunter Nethercutt Tanner
Hutchinson Neumann Tate
Hyde Ney Tauzin
Inglis Norwood Taylor (MS)
Istook Nussle Taylor (NC)
Johnson (CT) Ortiz Tejeda
Johnson, Sam Orton Thomas
Johnston Oxley Thornberry
Jones Packard Thornton
Kasich Parker Thurman
Kelly Paxon Tiahrt
Kildee Pelosi Torkildsen
Kim Peterson (MN) Traficant
King Petri Upton
Kingston Pickett Visclosky
Kleczka Pombo Vucanovich
Klug Porter Walker
Knollenberg Portman Wamp
Kolbe Poshard Waxman
LaHood Pryce Weldon (PA)
Largent Quillen Weller
Latham Quinn White
LaTourette Rahall Whitfield
Laughlin Ramstad Wicker
Lazio Regula Wolf
Levin Riggs Wyden
Lewis (CA) Roberts Young (FL)
Lewis (KY) Roemer Zeliff
Lightfoot Rogers Zimmer
Lincoln Rohrabacher

NOT VOTING—41

Abercrombie Gallegly Radanovich
Baker (CA) Gibbons Reynolds
Becerra Hinchey Serrano
Bono Hoke Skelton
Bryant (TX) Jacobs Smith (NJ)
Chenoweth Jefferson Waldholtz
Coburn Kennedy (RI) Walsh
Condit Klink Waters
Cramer Leach Watts (OK)
Dellums Manton Weldon (FL)
Dornan Martinez Williams
Fields (TX) Mfume Wilson
Flanagan Moakley Young (AK)
Fowler Moorhead

☐ 1041

Mr. TEJEDA and Mr. ORTIZ changed their vote from ''yea'' to ''nay.''

Ms. ROYBAL-ALLARD changed her vote from ''nay'' to ''yea.''

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

LEGISLATIVE PROGRAM

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute.)

Mr. GEPHARDT. Mr. Speaker, I wish to inquire about the schedule.

I yield to the gentleman from Texas [Mr. ARMEY], the distinguished majority leader, to announce the schedule for the rest of the day.

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, it is our intention today, as we are prepared to proceed on the rule for Medicare select, and then immediately after that, to move on to Medicare select. As the Speaker knows, this is very important legislation, and the timing is critical because of a deadline that must be met.

Following our completion of work on Medicare select, it is our intention to move on to the adjournment resolution, which needs a rule; so we will be doing the rule and then the adjournment resolution. Any other business scheduled for today is business that we can put over until after the Fourth of July work recess so that upon completion of the adjournment resolution, pending action in the Senate, we ought to be able to have completed our day's work. That ought to enable us to get our Members well on their way to their districts for the district work period by the scheduled 3 o'clock departure time.

Mr. GEPHARDT. Mr. Speaker, I would simply inquire of the gentleman, this obviously means that changes in committee assignments will be held until after the Fourth of July recess?

Mr. ARMEY. Mr. Speaker, if the gentleman will continue to yield, let me say, we would anticipate that action to take place sometime after 6 on Monday, the 10th.

As the Members might want to be reminded, we have tried to conclude the district work period by a return on Monday, the 10th, that would involve no votes before 5 on Monday, the 10th, to give that day to the Members for travel with a sense of security that they would not face a vote prior to 5 and have the opportunity to make their trip.

That being the case, we would not, since there seems to be a high interest in this matter of the committee appointment, we would not begin consideration of the committee appointment until after 6, probably, on Monday, the 10th. But we should, as I think we have indicated, expect that votes might begin as early as 5 on Monday, the 10th.

So we would do the four scheduled suspensions and then move on to the Medicare select—I am sorry, the committee assignment, International Relations, Appropriations, Resources, and so on as the week goes by. Monday night we will do the committee assignment after 6.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman.

PARLIAMENTARY INQUIRY

Mr. SOLOMON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. HASTERT). The gentleman will state it.

Mr. SOLOMON. Is it true that there will not be an intervening vote before we take up the rules, and Members do not have to stay in the well of the House?

The SPEAKER pro tempore. The Chair cannot anticipate what votes will come forward.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

CONFERENCE REPORT ON H.R. 483, MEDICARE SELECT POLICIES

Ms. PRYCE. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 180 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 180

Resolved, That, upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 483) to amend title XVIII of the Social Security Act to permit medicare select policies to be offered in all States, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Commerce. The previous question shall be considered as ordered on the conference report to final adoption without intervening motion. Upon the adoption of the conference report, Senate Concurrent Resolution 19 shall be considered as agreed to.

The SPEAKER pro tempore. The gentlewoman from Ohio [Mrs. PRYCE] is recognized for 1 hour.

Ms. PRYCE. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the distinguished gentleman from California [Mr. BEILENSON], pending which I yield myself such time as I may consume.

During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, time is of the essence. Once again, that is the basic principle underlying our consideration of legislation to extend the Medicare Select Demonstration Program.

In April, the Rules Committee reported a timely rule for H.R. 483. Today, we bring to the floor a rule making in order the conference report accompanying H.R. 483, with only hours to go before this valuable program is set to expire.

In 1990, Congress created the 15-State demonstration Medicare Select Program to allow Medicare recipients the opportunity of purchasing a Medigap managed care option. The project in those states is set to expire today, June 30, and unless Congress takes prompt action to renew it, the insurance benefits of nearly half a million senior citizens covered by the Medicare Select Program would be in serious jeopardy.

The conference agreement extends the Medicare Select Program for a period of 3 years. It also expands this option to seniors in all 50 States, and puts it on track to finally becoming permanent if the Secretary of Health and Human Services certifies that the program has met certain conditions.

In addition, the conference agreement clarifies that the definition of a State, for the purposes of this bill, includes the District of Columbia and the territories of the United States: Guam, Puerto Rico, the Virgin islands, and American Samoa.

In order to expedite consideration of this conference agreement in the House, and to ensure that seniors will have uninterrupted coverage, the Committee on Rules has reported a straightforward and fair rule for this very necessary legislation.

Specifically, the rule provides for 1 hour of general debate on the conference report, equally divided and controlled by the chairman and ranking minority member of the Committee on Commerce.

The rule also stipulates that the previous question shall be considered as ordered on the conference report to final adoption without any intervening motion.

Under the rule, all points of order against the conference report and its consideration are waived. While the Rules Committee generally prefers to avoid handing out such blanket waivers, this waiver and the rule itself are necessary because of a potential violation of clause 3 of rule XXVIII (28), which prohibits the inclusion of matters in a conference report beyond the scope of matters committed to conference by either Chamber.

A question has arisen as to the apparent lack of definition of the term State in either the House or Senate-passed bills. As I mentioned earlier in my statement, the conference report contains a definition of States which includes the District of Columbia and U.S. territories.

The waiver granted in the rule is a precautionary step to ensure that passage of this critical legislation is not unnecessarily stalled by this particular provision or by any other unforeseen, yet potential violation contained in the conference report.

Members might be interested to know, also that this rule fully complies with the 3-day availability requirement for conference reports, as the report was filed on June 22.

Mr. Speaker, the conference agreement provides a reasonable balance to permit a very valuable, and successful program for our senior citizens to continue, while allowing us time to evaluate the program more closely before making it permanent.

Our colleagues should keep in mind that the Medicare Select Program provides seniors with another viable option to receive affordable medical care. Premiums under the select option have resulted in savings as high as 37 percent over traditional Medigap policies. By giving older Americans more

choices within Medigap, we give them the flexibility to choose plans which meet their own special or individual needs.

In closing, I would remind our colleagues that the sponsors of this legislation have made it very clear that the House needs to act on this bill before leaving for the Fourth of July district work period. The Medicare Select Program is only hours away from expiring.

More than 450,000 Medicare beneficiaries will be impacted if the Medicare Select Program is not renewed. The Senate adopted the conference report on June 26. This rule will enable the House do to its part for our senior citizens.

Mr. Speaker, House Resolution 180 is a fair, balanced, and responsible rule. It was approved unanimously by the Rules Committee last night, and I urge my colleagues on both sides of the aisle to give it their full support.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I thank the gentlewoman from Ohio for yielding time to me. I yield myself such time as I may consume.

Mr. Speaker, we support the rule which, as my colleague and friend on the Committee on Rules has pointed out, waives all points of order against the conference report and is necessary because the conferees added new material not included in the House or the Senate bill.

The addition is minor. That is why we agreed unanimously last night to this rule for the conference report.

The legislation we are about to consider under this rule would expand the availability of an experimental Medigap Program, known as Medicare Select, from 15 States to the rest of the country. The Medicare Select Program makes available to senior citizens a managed care insurance policy to fill in the gaps of Medicare coverage. It differs from other Medigap policies that require senior citizens to participate in the insurer's selected network of health care providers in order to receive payment for Medicare's cost sharing amounts.

There have been a number of substantial concerns raised about the operation of Medicare Select Programs. In its initial estimate of the bill, CBO noted that a preliminary study of this program by the Health Care Financing Administration found very little management of care by the insurers and no measurable cost savings to Medicare.

In addition, preliminary data for a subsequent study indicate that Medicare costs have actually gone up in eight of the States where these programs now operate. Many of us had hoped that we would be able to postpone final consideration of the bill until results of the subsequent study are available to the Congress sometime this fall. We would be in a better position to evaluate the usefulness and cost of this alternative program to the elderly who choose to participate in it. Nonetheless, we understand that the proponents of this legislation feel it is important to complete consideration as soon as possible to ensure that the beneficiaries currently enrolled in the program do not lose their coverage.

□ 1100

In addition, Mr. Speaker, the conference report extends the authorization for the program for only 3 rather than the 5 years included in the original House and Senate bills. It also allows the Secretary of HHS to discontinue the program at the end of 5 years, if it is determined that the program results in higher premium costs to beneficiaries or increased costs to the Medicare Program itself.

This issue of cost is, Mr. Speaker, of course one of the real major and regular concerns about Medicare Select. Our colleagues will fully discuss all of this during the debate on the conference report.

We have absolutely no objection to the rule reported by the Committee on Rules last evening for consideration of this conference report. We urge our colleagues to approve the rule so we may proceed with consideration of H.R. 483 today.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Michigan [Mr. DINGELL].

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, this is a bad rule, it is a bad bill, it is bad legislation, it has been handled poorly, it is going to hurt the American people, it is going to raise the cost of Medicare, and it is going to be generally bad for the economy, the country, and the budget. Having said, that, Mr. Speaker, it is probably OK to proceed.

I would urge my colleagues to vote this rule down. I would urge them with equal vigor and diligence to vote down the legislation. The bill is being pushed more rapidly than information is available, and more rapidly than the committee or the House is being permitted to gather the facts about what the legislation does.

Initial information shows that Medicare has had its costs increased 17 percent on the average in States in which this Medicare Select Program has been made available. What that means is that senior citizens are getting less for more, and the Medicare system is getting billed more for less. This is a wonderful giveaway to the health insurance companies. It is being crafted in a fashion which defies good explanation.

The rule is needed today because the Republican leadership pushed this bill through the House without adequate thought, and then rushed it to a conference which did not deserve that honorable title between the House and Senate. We had a conferees meeting, which was scheduled for 5 p.m. one day last week. It was over at 5:01 p.m. Only yesterday did the Republican leadership become aware of the fact that they had a number of significant scope violations in a two-page bill.

Clearly slovenly legislation, slovenly legislative process is before this body. The issues presented in the statement of managers and in the offers passed back and forth between the House and Senate were presented as merely technical, but they were in fact highly substantive, and they will, for example, try to make gifts through these devices to the health insurance industry.

The result of this action is also to assure that the study which should take place to find out what is really going to happen under this Medicare Select Program will be so crafted as to make it very difficult to in fact obtain the necessary facts that the Congress ought to have, to know whether we ought to continue to extend this outrage, or whether in fact we ought to terminate it, as we indeed should.

The scope of the bill was expanded so that insurance companies can sell highly questionable policies not only in 50 States but in the territories and in the District of Columbia as well. I am certain that there are a number of guileless, unsuspecting elderly consumers in these locations that can be plucked for further advantage and further economic benefit to the health insurance industry.

Of course, the health insurance industry will profit mightily from this further largesse by this Congress under the Republican leadership at the expense of the taxpayers, at the expense of the budget, and at the expense of Medicare recipients.

The subjects of the GAO study in the bill was changed, so it will be more difficult for us to get GAO to present us with options for modifying the MediGap market, and therefore, to be sure that the seniors who switch out of these Medicare select policies can do so in a way where they can get back into a decent package of insurance.

Understand, this is insurance which does not go on a level basis, it starts at about $870 a year, if one is 65, but by the time one has reached 85, it is going to cost $2,300 or $2,400. Nobody is telling the senior citizens about that at all. Of course, the process here has been crafted so as to proceed with such blinding speed that no one will see that the senior citizens, the Medicare trust fund, the American people, are going to get skinned by this outrage.

Mr. Speaker, I urge my colleagues to vote against the rule. I urge them to vote against the bill. I predict that if this bill passes and is signed into law, we are going to find that Medicare is going to cost the taxpayers and the trust fund about an additional 17 percent. I tell the Members, they should put that in their book. They are going to have a chance to remember that when we review this legislation.

Ms. PRYCE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California [Mr. THOMAS], chairman of the Subcommittee on Health of the Committee on Ways and Means.

Mr. THOMAS. Mr. Speaker, I had not planned to speak, but I do want to put the statements of the gentleman from Michigan in context. He was one of the 14 who voted against the bill originally. There were 408 Members who supported it.

Mr. Speaker, on April 4 he sent out a Dear Colleague letter that said, ''Why the rush to bring H.R. 483 to the floor this week?'' He just in the well stated, ''Why the rush on moving forward with this legislation?'' June 30, today, is the expiration date for this program. I would think that is why the rush argument has been laid to rest.

As far as scope is concerned, we said it was going to be available to 50 States. The majority on the other side of the aisle, in their wisdom, decided to contest that; since the 50 States was extending it to the District of Columbia and Puerto Rico, as according to the Social Security Act, they were going to argue that was out of scope, so we simply went to the Committee on Rules to make sure that we could include the District of Columbia and Puerto Rico in the scope.

As to the GAO study, I think the gentleman from Michigan [Mr. DINGELL] knows that we do not need legislation to get a GAO study. A Member just has to ask.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from Maine [Mr. BALDACCI].

Mr. BALDACCI. Mr. Speaker, it is the height of hypocrisy for the majority party to pat themselves on the back for restoring the Medicare Select Program, when just hours ago they cut $270 billion from Medicare to help pay for tax breaks for the wealthy.

The Medicare Select Program is a good program. It is a program that pays the cost for sharing of Medicare beneficiaries if they go into a selected list of providers, but the Medicare Select Program is a supplemental program, and after today, it has nothing to supplement.

Medicare select is a worthwhile program, but this worthy program cannot begin to make up for the damage of the massive Medicare cuts made earlier. Medicare select is supposed to be the frosting on the Medicare cake, not the entire cake. A diet of frosting only is bound to make the stomachs of America's seniors upset. I know that is how I feel today.

GENERAL LEAVE

Ms. PRYCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

Ms. PRYCE. Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. STARK], the ranking member of the subcommittee.

Mr. STARK. Mr. Speaker, I thank the distinguished gentleman for yielding time to me.

Mr. Speaker, I rise in hopeless opposition to a rule that was crafted in the dead of night, and I rise to warn the American public. The gentleman from Michigan [Mr. DINGELL], who spoke a few minutes ago, was absolutely correct. This is terribly flawed legislation. This bill destroys a fairly good idea.

This bill has been introduced and written by former operatives of the health insurance industry. It deregulates supplemental insurance, and provides an opportunity for the worst shylocks in the health insurance industry to steal from the Medicare system and from our seniors.

Sitting right over there is a man who, within the past year, has received hundreds of thousands of dollars from the health insurance industry. He is a Republican Committee on Ways and Means staff person who drafted this bill for the health insurance industry.

Mr. Speaker, they are entitled to get payback for the huge contributions they made to the Speaker's campaign funds. That is OK. We know that goes on. However, I am telling the Members, Mr. Speaker, that what has happened here presages doom. If this kind of sloppily drafted legislation is how the Republicans think they are going to find a way to cut $270 billion out of Medicare, they would save everybody a lot of time by just moving to eliminate Medicare, because they will do it through stupidity, lack of experience, urgency to provide help to the people who have feathered their campaign nests, and with complete disregard for the seniors.

Mr. Speaker, the seniors who sign up for this in States where it is not regulated, and it is regulated in those States, it is regulated by no one except the good conscience of the insurance companies. Companies like Prudential, who have stolen billions of dollars from seniors, companies that are under indictment or have pled guilty and paid $300 million, $400 million in fines are the same companies who are going to take care of our parents, and indeed ourselves, under this plan. Do not buy into that.

Mr. Speaker, this is just a precursor of the Republican plan to destroy Medicare. We will hear about it after the recess. We will hear about taking $270 billion out of the most popular program, the most efficient insurance program in the country. It is being done at the behest of the health insurance companies by the Republicans. Members should vote against this rule in protest, and Members should vote against the bill.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. GENE GREEN].

(Mr. GENE GREEN of Texas asked and was given permission to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, I thank my colleague, the gentleman from California, for yielding me this time.

Mr. Speaker, I voted for the Medicare Select bill as it first came up, and now I intend to support the conference committee report. But I have some concern about it, in light of the big picture. That is what we need to look at today on this House floor. I hope the American people are looking at it, particularly those people who are senior citizens.

Mr. Speaker, the budget resolution was passed yesterday, planning $270 billion in cuts in Medicare, and at the same time providing tax cuts of $245 billion. I do not think it makes sense that today, the very next day, we have a conference committee report on Medicare Select, which supplements the same Medicare Program that was cut yesterday.

Those of us who support the HMO concept and managed care, still support the individual making that decision. However, with what happened yesterday and what will happen over the next few years, we will see that freedom of choice for our seniors and future seniors limited. It has not happened yet, but we are setting the stage for it, as we stand here.

I represent the city of Houston in Harris County. We have 286,000 seniors who receive over $1.5 billion in Medicare payments. A $270 billion cut nationally over the next few years will impact those seniors. Mr. Speaker, the Republicans seem to not understand that health care costs are going up, and they are going up because we are an aging population. To cut those seniors, the growth, as they say, will force them to go into more managed care and into Medicare Select like we are seeing today.

We are voting on the conference committee report that offers seniors hopefully the goal of more coverage under the HMO and more expansion, but the secret of the HMO concept for seniors is freedom of choice, their freedom of choice to go into it, not somebody in Washington, a bureaucrat or even their elected Members of Congress saying, ''You have to go to a Medicare Select plan.''

Mr. Speaker, let me repeat what we are talking about today. We will see over the next few years senior citizens being forced into the Medicare Select or other HMO programs, removing that freedom of choice as part of the way to save that $270 billion. That is what people need to understand. That is the fear I hear from my constituents at home.

Mr. Speaker, last Monday I was with a hundred senior citizens in the city of Houston. Some of them were in the Medicare Select or the HMO that is offered by a number of private contractors. Some of them were happy with it. However, they wanted to make sure it was their choice, not the choice of the U.S. Congress or that of some bureaucrat. We promised Medicare in 1965.

Frankly, if we waited for the Republican majority to provide for Medicare back then, it would not be here today.

□ 1115

I guess what I am concerned about is the forced cuts, Mr. Speaker, particularly in the budget bill passed yesterday with the change in the Consumer Price Index, and again in light of what is happening today with this bill.

We will see the Consumer Price Index readjusted to where the cost of living increases in Social Security will be reduced. That reduction, with the increase in Medicare expenditures, will cost senior citizens who are now receiving it, and again those who are growing into it, those 60-year-olds, those 55-year-olds who are looking forward to be able to have some type of security and having medical care when they are over 65.

I like the idea of Medicare select, Mr. Speaker, but I do not like the idea when we encompass everything together with the cuts we will see and the forced choices those people are going to have to make. I think that is what we need to be concerned about. I would hope over the Fourth of July recess and over the next couple of months and even over the next few years, because this will not happen today or tomorrow or next week, but it will surely happen with the budget vote yesterday to cut $270 billion out of the growth of Medicare.

Mr. Speaker, I hope that all of our Members remember that, when we vote for this bill.

Ms. PRYCE. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Speaker, I just want to thank the preceding speaker for his support of Medicare select. There were 408 Members of this House that voted for it. I hope every one of those 408 Members will vote for it again, because this is an entirely voluntary alternative for our seniors. In the States where it has been available, it has offered them more care at a lower cost and been well-regulated by both the State and the industry and some Federal rules.

I also want to point out that as we reform Medicare, as we assure that Medicare will be there for our seniors and provide the quality of care that we have depended on Medicare for, we will over the next 7 years increase spending per senior in America from $4,800 on average to $6,700 on average. That is a one-third increase, a very solid increase in the face of declining costs in the health care sector. Our seniors are going to be well cared for.

While change is hard, if it is made with concern and in a responsible way, we can increase the money that we make available for senior care per capita throughout this Nation in an honorable way and one that supports the needs of retirees in this great Nation of ours.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the gentleman from North Dakota [Mr. POMEROY].

Mr. POMEROY. Mr. Speaker, it has been a contentious, partisan week in the House of Representatives, and much of the division has involved the Medicare Program. The budget passed by this House yesterday on a largely partisan vote imposes cuts of $284 billion that will be devastating to the program.

That will definitely mean higher out-of-pocket costs for seniors and less choice. I feel bad about that issue this morning and bad about the way the House resolved it and anxious about how those cuts will actually be put in place as we deal with the legislation that is before us.

It is sometimes difficult, then, to get on to other issues where there is in essence no partisan division, where it is a pretty clear and simple little bill that ought not have some of the rancor from earlier debates spilling over into it, but that is not precisely the case with the Medicare select extension before us today.

It passed the first time in the House of Representatives 408 to 14, most Democrats, most Republicans joining together in a rather unusual show of bipartisan support for a program. Why did that vote occur? Because I think the Members recognized that a program such as this, a voluntary way for seniors to opt for an insurance program that is going to give them a premium discount, that has had a successful run in the 15 States that have been allowed to run the Medicare Select Program, ought to be extended to the 50 States, ought to be given a 3-year extension so that the marketing of this program can begin in earnest.

I know something about this program. I was the insurance commissioner in North Dakota at the time it passed. I lobbied HHS to get North Dakota into the program because I believed in it. Ten thousand North Dakotans participate in this program. They get a monthly savings in premium amounting to 17 percent below those buying the Blue Cross/Blue Shield Medicare supplement that is not Med select.

Medicare select saves money. It negotiates discounts from the hospital and passes it on to the senior citizen. It also passes on any managed-care savings experienced in claims payment to the senior citizen purchasing the insurance policy.

What is wrong with this? Is this some sort of diabolical plot by the evil insurance industry? Certainly not. Certainly not. It is a simple little program, it works well, and we ought not take some of the bad feeling we have about some of the other discussions going on around here and bring it to this little issue. Medicare select should be passed. This House passed it once before, 408 to 14, and I trust we will again this morning.

Mr. BEILENSON. Mr. Speaker, I yield 7 minutes to the gentleman from Rhode Island [Mr. KENNEDY].

Mr. KENNEDY of Rhode Island. Mr. Speaker, I was among those who voted against it when it came to the floor last time, and I want to correct something that my colleague was talking about in terms of leaving it up to the States.

Maybe it was good for North Dakota, and I am sure my colleague, when he was an insurance commissioner, looked out for the consumers, but I can tell you the problem with having 50 different select plans, 50 different select plans regulated by 50 different States. It means that seniors in one State, like in my State of Rhode Island, if they have their Medicare Select MediGap plan and they go over to Massachusetts, it is a different plan. That, to me, does not sound like the proper approach to take to this when we are talking about needing comprehensive savings.

In addition, I just want to talk a little bit about this so-called increased choice. Under the guise of giving seniors increased choice, Congress is about to pass legislation that will in fact box them in. Yes, one more plan will now be available, but it is a narrow one and it is difficult, leaving many seniors in a potentially very risky situation. More choice do not simply mean better choices. For seniors who are considering the Medicare select policy, keep one thing in mind: This plan could be hazardous to your health.

When Medicare select came before us the last time, I supported an alternative that addressed the serious flaws in Medicare select. This amendment would have ended the problems with price rising with age, lowered the barriers that make it difficult and risky and dangerous for seniors to switch, and would have limited the extension until we know that this is a really good idea, because the jury is still out.

Let me just add, what this does it, it puts it into the insurance companies' hands and allows them to come up with the rating system. I have seen these Medicare select plans, because in my State I represent the fourth most elderly district in this country, and the senior citizens in my State are worried about this because they know better than we do what is coming down the road.

It means that they are going to be able to age-rate you. What does that mean? That means when you get older, they are going to be able to jack up the premiums, and because you are locked into this plan now, you are locked in for life.

You try to switch, and guess what: You are going to be paying all those preexisting condition prices, because another insurance company is not going to want to pick up because you may have had asthma, you may have had some kind of visiting nurse care you might have needed, and new plans are not going to want to touch you.

Why? Because they are not going to make money off of you. Because if you are sick, insurance companies do not want to cover you. That is why we have Government, because Government is going to regulate the private sector when it comes to insurance, to make sure that the private sector does not run roughshod over the senior citizens and take advantage of them.

Believe me, if you do not think they are going to do it, you have got another think coming, because these HMO plans are all about making money, and they do not make money off people who are sick. They do not make money off senior citizens.

Be careful, Members. Be careful when you vote for the select plan, because the Republicans did not allow enough time for us to do a proper study of this and now they want to open it up to all the States under the guise of new choice.

What is that new choice? It is a bait-and-switch routine. It says new choice. We do not want to face the tough choices, so we will let this private marketplace reduce your benefits. That is what we are saying.

We are squeezing the Medicare budget. We are seeing it on the floor of this House. We are squeezing Medicaid. We are cutting the senior citizens Medicare Program. The gentleman from Ohio [Mr. KASICH], the chairman of the Committee on the Budget, says we are not, that we are only reducing the rate of growth, but make no mistake about it, there is going to be less money in Medicare.

What is going to happen? There is not going to be enough money to go around, so the MediGap select policies, that is, the supplemental insurance that allows senior citizens to cover what Medicare will not cover, if Medicare does not have as much money as they had before, you better believe they are going to have to have more in the way of supplemental insurance to bridge the gap. Congress is passing this Medicare select because the Republicans are just about to pass all these cuts to Medicare.

Mr. Speaker, this idea that this is going to save you money, this is really tricky. If you join the HMO plan, you are not paying as much, so who would not want to buy into that?

But let me warn you, in policies that have already been issued under this Medicare select policy, once you are in the plan, it does not bar them from jacking the rates up on you. Now you are stuck because you are in the plan. You have signed your rights away as a consumer.

And guess what? Let's say your doctor leaves the plan and you want to go back to your doctor. Forget it. Under Medicare select you cannot do that, because if your doctor is not on the list of approved doctors, you are not going to get that doctor. Let's say you want to switch and follow your doctor. You cannot do that.

Then as far as the prices, initially you have got a lower price, but like I said earlier, they will jack the price up on you once you get older. Once you get older, they are going to be able to age-rate you.

Mr. Speaker, insurance commissioners in the various States may be able to look after the senior citizens, but I just think it is a really terrible approach. It is the kind of approach we have been taking to everything, give it back to the States, but on health care I think we are making a big mistake when we are trying to have a patchwork quilt.

It is going to be a spot, State-by-State approach to this problem, and I do not think it is the right way to go. We need comprehensive health care reform that regulates the insurance companies on the national level, because in a small State like mine in Rhode Island, these insurance companies are going to be able to run roughshod over us and we are not going to have a leg to stand on.

My State is a million people. Do you think we are going to be able to stand up to those insurance companies and say, ''Hey, what you're doing is wrong''? Forget it. We cannot do it. We have got insurance companies in our State who are already threatening to say, ''We're not going to write your automobile insurance anymore.'' I do not want that to happen to health care and it should not happen to health care.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, I rise to direct a question to the manager of the rule. I note that in the last words in the rule, it says, ''Upon the adoption of the conference report, Senate Concurrent Resolution 19 shall be considered as agreed to.''

To what are we agreeing in this rule? Can anybody help me to know what is in Senate Concurrent Resolution 19? I think this is an important matter, because the Senate would not have passed a concurrent resolution on it unless it were important, but we are being asked to agree to this.

To what are we being called upon to agree? Is this something that was considered in the 1-minute conference which we had between 5:00 and 5:01, or was it some matter which was not considered, which now must be considered and added to the proceedings of this body?

□ 1130

Mr. DINGELL. Mr. Speaker, can the gentleman from Virginia [Mr. BLILEY], my good friend, tell me what momentous Senate concurrent resolution we are adopting in the rule and why we could not consider it out in the open and have everyone know what we are doing here?

Mr. BLILEY. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Virginia.

Mr. BLILEY. Mr. Speaker, I would say to the gentleman from Michigan [Mr. DINGELL] that it is right out in the open. That the Senate resolution merely conformed the title to what we are doing.

Mr. DINGELL. Mr. Speaker, I would ask the gentleman, is that because we were sloppy in the House or because the Senate was sloppy or because the conference was sloppy in the processing of legislation? I understand that the title is to be changed so that it no longer refers to an amendment to the Social Security Act, but it refers now to an amendment to OBRA; is that correct?

Mr. BLILEY. Mr. Speaker, if the gentleman will continue to yield, it is not the proper duty for us to question what the motives of the Senate were for doing what they do. But I did point out that the resolution does conform the title to the bill. That is done all the time.

Mr. DINGELL. With great respect for my colleague, what this shows is this is stupid legislation, further done with great speed and limited wisdom.

Ms. PRYCE. Mr. Speaker, I continue to reserve my time.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO of California. Mr. Speaker, I had not intended to speak on this, but I felt at this point that I would want to comment. The gentleman from Rhode Island [Mr. KENNEDY] raises what I think are generally concerns about the entire way the health insurance industry is regulated in this country and the problem with adverse selection and other factors that really can work against the interest of working people and seniors generally. There is not doubt that this body needs to address unfair insurance practices and the overall problems of our patchwork health care systems. Furthermore, I do not believe that debate over this measure should be mistaken for the broader debate that needs to take place over protecting and improving on our Medicare system. What is important to keep in mind is that this program has been a positive if small step, toward providing more MediGap options for seniors who can get additional benefits at no more cost.

Therefore, Mr. Speaker, I rise in support not only of this rule, but of expanding this effort to experiment with health maintenance organizations and other forms of managed care in all 50 states.

While all of the data on this program is not conclusive, in my state of California, this demonstration project appears to be working. Seniors have the choice of opting for managed care MediGap programs or they can stick with a more traditional fee-for-service type MediGap Program. It is their choice.

There is a high rate of consumer satisfaction with these plans. Last year Consumer Reports Magazine rated the top 15 MediGap insureres nationwide. Eight of them were from the Medicare

Select Program. And while we need more analysis, there are strong indications that the program could eventually keep costs down.

I must emphasize that this is not a carte blanche extension. Medicare select cannot become permanent if the Secretary of Health and Human Services determines that it costs the Government money, that it did not save beneficiaries money, and did not provide quality health care. And I think it is the responsibility of both sides of the aisle to make sure that all three of those criteria are met and that we back the Health and Human Services Secretary if she or any of her successors determine that we have failed to meet this criteria.

Mr. Speaker, I would hope that this Congress, while supporting this today, will pay attention to the data that results from these further experimentations. Medicare select is an important test case for the Medicare system.

Mr. BLILEY. Mr. Speaker, I rise in support of the rule waiving points of order on the Medicare select conference report.

The Medicare select program provides Medicare beneficiaries with a cost effective alternative to typical MediGap policies. It gives seniors the option of purchasing a MediGap policy for hundreds of dollars less than the typical policy. Hundreds of thousands of Medicare beneficiaries benefit from these policies.

Medicare select policies, however, are sold through a demonstration authority which expires tonight at midnight. This conference report will extend the program and allow all States to participate in this excellent program which provides less costly MediGap policies to our Nation's elderly.

At this late date, however, our colleagues on the other side of the aisle were attempting to delay the continuation of this program by raising the most obscure and nitpicking objections based on scope violations. There are no real scope problems in this conference report. However, the Democrats in their effort to stop this program were resorting to technical nitpicking.

And who will be the individuals hurt if this program is stopped? The hundreds of thousands of elderly who have purchased these policies. I ask you to support this rule so that we can proceed to the consideration of the conference report. A vote for this rule is a vote for our Nation's Medicare beneficiaries, who can then gain the benefits of these innovative MediGap policies which provide high quality care at an affordable price.

Mr. BILIRAKIS. Mr. Speaker, I rise in support of the rule on the conference report on Medicare Select. I come to the floor with a strong feeling of deja vu. When I appeared on the floor to speak in favor of passage of H.R. 483 earlier this spring, I indicated how important the Medicare Select Program was and how the fate of half a million beneficiaries rested on the action taken by the House.

The road to this point, in my view has been unnecessarily long. If it were not for the action on the other side of the aisle, we would not be here at the 11th hour seeking passage of a rule to bring this 2 page conference report to the House floor. We have delayed long enough.

Medicare Select is a very simple program. It is a particular type of MediGap policy which allows seniors to choose a medicare benefits package modeled on a preferred provider delivery system of health care. The Medicare Select policy allows seniors to buy a less expensive MediGap insurance policy which wraps around the traditional medicare benefit. It represents the new wave of innovative managed care delivery options that the private sector is currently using to hold down the rise in health care costs. Let us remember that for those elderly who choose a MediGap policy, it is 1 of 11 options currently available.

I urge my colleagues to pass this rule so that we can enact this legislation swiftly. Our senior citizens deserve no less.

Mr. BEILENSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. PRYCE. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. BLILEY. Mr. Speaker, I call up the conference report on the bill (H.R. 483) to amend title XVIII of the Social Security Act to permit Medicare Select policies to be offered in all States, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. HASTERT). Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Thursday, June 22, 1995, at page H6256.)

The SPEAKER pro tempore. The gentleman from Virginia [Mr. BLILEY] will be recognized for 30 minutes and the gentleman from Michigan [Mr. DINGELL] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Virginia [Mr. BLILEY].

GENERAL LEAVE

Mr. BLILEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report to accompany H.R. 483.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. BLILEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge my colleagues to join me in supporting the conference report to extend the Medicare Select Program. The conference report provides for a 3-year extension of the program. The report also requires the Secretary of the Department of Health and Human Services to conduct a study comparing the health care costs, quality of care, and access to services under Medicare Select policies with other MediGap policies. The Secretary is required to establish Medicare select on a permanent basis unless the study finds that (1) Medicare select has not resulted in savings to Medicare Select enrollees, (2) it has led to significant expenditures in the Medicare program, or (3) it has significantly diminished access to and quality of care. I think the bill provides for a reasonable balance that will permit a valuable and innovative program for our senior citizens to be continued while permitting a more informed evaluation of the program. We must remember that Medicare Select is a MediGap insurance policy which provides seniors with another option to receive medical care. By giving the elderly more choices within MediGap we give them the option to pick plans which meet their individual needs.

In my view, we must not allow this program to expire. It is unfair to both participants and insurers alike to have to worry about what the Congress will do next. Medicare Select is a small but important program, and I might add, a highly regulated program. It is regulated under the Federal MediGap standards. There are additional Federal statutory standards for select policies, plus our States' insurance departments regulate them under State law. Medicare Select saves senior citizens money, provides more choice for senior citizens than the current Medicare risk contract HMO, and has given them the opportunity to secure a more comprehensive benefits package. If we do not act to extend this program, no new enrollees will be permitted to enroll in select plans and we will see the ultimate demise of these plans. The end result is bound to be significant increases in premiums for current enrollees. Medicare beneficiaries will be denied a product that saves them money and which has served them well. There is no reason not to extend this program in a responsible fashion.

Mr. Speaker, I urge my colleagues to join me in supporting this conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that my time be equally divided between myself and the gentleman from California [Mr. STARK], a member of the Committee on Ways and Means, and that he be permitted to control that time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DINGELL. Mr. Speaker, I yield myself 4½ minutes.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, the agreement we are voting on today extends the Medicare select demonstration program to all 50 States for a 7½-year period beginning in 1992.

It does so with no appreciation of the consequences of this. Although many support this program, I believe that because Medicare cuts required by the Republican budget in the amount of some $270 billion are so drastic, and

will require such fundamental reductions in the Medicare program, it is impossible to pass any Medicare legislation, including Medicare select without taking those reductions into account.

In addition, Mr. Speaker, as many of my colleagues know, we argued in the committee that we should await the results of the State evaluations before expanding this program to all 50 States. It has come to my attention that the preliminary results of this evaluation are now in, but they have not been made available by the handlers of the legislation.

Those results indicate that Medicare select is significantly associated with Medicare cost increases in 8 of 12 select States. Let me repeat that. Medicare select is associated with cost increases in 8 of 12 States.

Furthermore, the cost increase is 17.5 percent. The cost increase is 17.5 percent. That is not fiscal responsibility.

Now, while I know these results will not be final until next month, we should clearly examine the results before passing an expansion to all 50 States. How can we possibly extend a program that has the potential of increasing Medicare costs in all of the 50 States, as it has in the States in which it is now used by the amount of 17.5 percent?

This leads one to the unfortunate conclusion that my Republican colleagues are willing to cut back on benefits to Social Security recipients and to Medicare recipients, but that they are not willing to lock up a program which is going to increase costs to the Medicare system and to increase profits to the insurance companies.

Mr. Speaker, I therefore urge that we vote ''no'' on the conference agreement on H.R. 483, and that we reconsider these changes in the light of evaluation results and in the context of budget reconciliation. Then we can more fully examine the entire Medicare Program, which is going to be examined in extenso in connection with reconciliation, because we are going to have Republican cuts in Medicare recipients, and we should include the Medicare cost increases which will result in the additional beneficiary out-of-pocket costs that will occur under this program, along with increased utilization and limitations on the beneficiaries' choice of providers as indicated in the preliminary report.

Let me remind my colleagues that Medicare select has had some peculiar consequences. It has not been the unmixed blessing which the proponents would have us believe. First of all, it has raised costs, but it has done some other things which have significant impact on recipients.

It first of all starts out low and goes up. The average premium cost at the beginning is around $870 a year. But by the time the recipient has reached the age of 85, it has risen, lo and behold, to something like $2,300 a year.

Now, during that time he is locked in because any preexisting conditions which he had during the time or before he got on Medicare select, he cannot carry over and have treated in any new package. So if a person joins this Medicare Select Program, he is locked in. He cannot get out because he cannot get treatment for new conditions.

Those new conditions are carefully walled out by preexisting condition clauses in any new insurance policy. So he pays more and more and more and he cannot get out. If his doctor moves or his hospital closes or some condition requires him to want to go to a particular person, doctor, or facility for treatment and they are not included in this HMO, that individual cannot go.

This is Medicare select all right. It is selected for the benefit of the insurance companies who are going to make lots of money. And they are going to make it, in part, off the Medicare trust fund and they are going to make it in part off of the poor little guy who is dependent on Medicare for providing his benefits.

□ 1145

They are going to skin the public, and everybody is going to act with great surprise when we find the new returns and the new information show us that we have in fact cost ourselves a lot more money; we have in fact denied Social Security and Medicare recipients benefits; and we have benefited the health insurance industry; and we have left ourselves in a situation where we all of a sudden find that Medicare has cost a lot more.

I urge my colleagues, vote this down. Let us consider it in a more temperate fashion, and let us consider it when we can have a look at all of the things, including the cuts in Medicare benefits which are coming to the Medicare recipients courtesy of my good friends and colleagues on the Republican side of the aisle.

Mr. BLILEY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. ARCHER], the chairman of the Committee on Ways and Means.

Mr. ARCHER. Mr. Speaker, I thank the gentleman for yielding and compliment him on his good work on this bill.

It is a good conference agreement that deserves the support of every Member of this House. The Medicare Select Program expires today if we do nothing.

Early in the session, we heard from Members who opposed this program, that there is no need to rush, that we are moving too quickly, and yet here we are only hours away from the program expiring and over 450 thousand seniors are still uncertain as to their fate under this important program.

The Senate has already passed the conference report by unanimous consent. The 408 Members of the House who voted in favor of extending the Medicare Select Program earlier in this session should support this conference report and send it to the President for his signature tonight. It is a simple, noncontroversial bill which extends to seniors across the country the opportunity to choose at their option a Medigap program that has proven highly successful, high quality, and cost effective, and contrary to comments that were made earlier a few minutes ago, the CBO scores this as revenue neutral to the Medicare Fund, and the opponents of this know that.

My thanks to all the members of the Committee on Ways and Means and Committee on Commerce who have made this legislation possible. I particularly cite the outstanding work of two members of my own Committee on Ways and Means, the gentleman from California [Mr. THOMAS] and the gentlewoman from Connecticut [Mrs. JOHNSON]. It was their energy and commitment that brought us to this point today.

Mr. Speaker, this is a worthy proposal. I urge an ''aye'' vote on the conference report.

Mr. STARK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this conference report legislation seeks to extend and expand the capricious demonstration program which will endanger the Medicare program and its beneficiaries.

Basically it is a license for the insurance companies to steal.

Medicare is the finest health care program in the county. There is no insurance plan in the country that offers more beneficiary choice. It is valued because we in Congress have worked long and hard to make it so.

Today by forcing a premature expansion of this demonstration program, the Republicans in Congress are turning their backs on this great tradition. Republicans are putting the interests of private insurance companies ahead of the Medicare program, not only in this bill, but in their budget bill which seeks to cut $270 billion out of the Medicare program, and they are ignoring the beneficiaries who rely upon it for their health care security.

This bill, as I have said before, is written by a Republican Ways and Means staff member who, within the past year, was receiving hundreds of thousands of dollars from the health insurance industry. Talk about big time sellout to private interests, this bill takes the cake.

Medicare select will be presented as a program without problems, just another choice for the seniors to elect. The facts are quite different.

At the time of the committee action on this bill, only a very preliminary evaluation of the Medicare Select Program had been concluded. That preliminary analysis found as follows:

> There is little coordination or management of care by organizations offering Medicare Select. The network formed by insurance companies were initially organized to increase Medicare market share at network hospitals rather than to minimize utilization.

Since the time of the committee action, a more complete evaluation of

Medicare select has been conducted, and before my Republican friends dismiss the report as some partisan document, I would like to remind them that this report was commissioned by a Republican administration, and the researchers who conducted the study were selected by that Republican administration. The study has been ongoing for well over 2 years. I will enter the study in the RECORD, and it is important to note here that in the study it talks about costs and utilization findings to date. The study says:

We were surprised to find Medicare Select is significantly associated with Medicare cost increases in 8 of the 12 select States: Alabama, Arizona, Florida, Indiana, Kentucky, Minnesota, Texas, and Wisconsin. For the eight States indicating positive impacts on Medicare program costs, the average impact is 17.5 percent. The estimates vary from 7½ percent in Minnesota to a 57-percent cost increase in Indiana. However, only the Indiana estimate is much more than 20 percent. The results indicate that the cost increases substantially reflect increases in inpatient hospital utilization. These estimates are unusually robust.

That is the understatement of the day, 17.5 percent increase on the Medicare trust fund, in addition to cutting $270 billion out. As I have said before, you would save the taxpayers a lot of money if you just introduced a resolution to eliminate Medicare tomorrow, let the Republicans vote for it. That is basically what they intend to do. Let the public see their true colors.

Given the findings and the fact that the Congressional Budget Office found that this study raises serious questions about the operation of the Medicare Select Program, why are the Republicans rushing forward to extend and expand this demonstration project, particularly when they are trying to reduce Medicare expenditures? Are they that cavalier about the report's conclusion? For months congressional Democrats and the administration have called for a limited extension of the program in order that the assessment of the demonstration could be completed and necessary adjustments made based upon its findings. Republicans have only marched forward faster.

Why? Whose interests are the Republicans responding to in this intemperate bill? Why are we trying to reduce costs under Medicare, and this program at the same time is moving in exactly the wrong direction?

Halting the expansion of this demonstration program is the only prudent action for us to take.

Proponents of this bill have made the claim if we do not extend it beneficiaries will be harmed. That is wrong. It is absolutely not the truth. Everyone should understand there is no current participant in the Medicare select plan who will lose coverage if we do not extend the program today. Certainly, additional beneficiaries will be prohibited from enrolling after today, but current enrollees would be allowed to continue in the plans.

By voting ''no'' today, the program evaluation will be allowed to be completed without corrupting Medicare.

And, third, voting ''no'' today will confirm our responsibility for the fiscal integrity of Medicare by blocking a premature expansion of this program.

How can any of us explain to our constituents a vote to expand a program from 15 to 50 States that has just been found to raise costs to the Federal Government by tens of millions of dollars? That is fiscal irresponsibility at its highest.

For those who ignore the evidence and vote to expand this program today, before adjustments can be made to it, you are in effect voting to increase Medicare's costs by $800 for each beneficiary who ends up in one of these plans. That is not fair to the seniors.

Finally, what does the Medicare beneficiary get who is in the Medicare select plan? Access to a very limited network of doctors and hospitals. You prevent them from getting the ability to switch out of the Medicare select plan and back into a reasonable MediGap program. You deny them their choice of medical independence.

In my home State of California, the Medigap plan will cost them an extra $3,360 in premiums.

For the fiscal integrity of the Medicare trust fund and the protection of beneficiaries, you must vote ''no'' on the conference report to H.R. 483.

Mr. Speaker, I reserve the balance of my time.

Mr. BLILEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. BILIRAKIS], the chairman of the Health and Environment Subcommittee.

(Mr. BILIRAKIS asked and was given permission to revise and extend his remarks.)

Mr. BILIRAKIS. Mr. Speaker, I rise in strong support of the conference report on H.R. 483, legislation to extend and expand the Medicare Select Program.

The Omnibus Reconciliation Act of 1990 was established by a Democratic Congress, under which insurers could market an additional Medigap product, an additional Medigap choice, known as Medicare select. Medicare select policies are the same as other Medigap policies except that supplemental benefits are paid only if services are provided through designated providers. The demonstration was limited to 15 States and expired December 31, 1994. The demonstration was extended through June 30, 1995, in the Social Security Act Amendments of 1994.

The conference report on Medicare select provides that:

First, Medicare select is extended to all 50 States for a 3-year period. The Secretary is required to conduct a study comparing Medicare select policies with other Medigap policies in terms of cost, quality, and access. Further, it provides that Medicare select will remain in effect unless the Secretary determines, based on the results of the study, that Medicare select has: First, not resulted in savings of premium costs to beneficiaries compared to non-select Medigap policies; second, resulted in significant additional expenditures for the Medicare Program; or third, resulted in diminished access and quality of care.

Second, GAO is required to conduct a study by June 30, 1996 to determine the extent to which individuals who are continuously covered under Medigap policies are subject to medical underwriting if they switch plans and to identify options, if necessary, for modifying the Medigap market to address this issue.

Select policies do not affect the obligation of Medicare to pay its portion of the bill. Beneficiaries who obtain covered services through one of the network's preferred providers will generally have their benefits paid in full. Under OBRA 1990, the select plan is also required to pay full benefits for emergency and urgent-out-of-area care provided by non-network providers.

Select policies do not remove a beneficiary's freedom to choose any fee-for-service provider. If a beneficiary is unhappy with a Medicare select provider for any reason, that person may opt out at any time to get off the plan and pick up any other Medigap policy, or he can remain in the plan and go to any provider, and Medicare will pay if it is a covered service. However, in that case, the beneficiary may be liable for a deductible and coinsurance.

An insurer marketing a select policy is required under OBRA 1990 to demonstrate that its network of providers offers sufficient access to subscribers and that it has an ongoing quality assurance program. It must also provide full and documented disclosure, at the time of enrollment, of: network restrictions; provisions for out-of-area and emergency coverage and availability; and cost of Medigap policies without the network restrictions.

In addition, Medicare select policies are governed by the same types of regulations imposed on Medigap policies concerning: limitations on preexisting conditions; loss ratios; portability; guaranteed renewal, and open enrollment.

OBRA 1990 also included significant penalties for Select plans that: Restrict the use of medically necessary services; charge excessive premiums; expel an enrollee except for nonpayment of premiums; or withhold required explanations or fail to obtain required acknowledgements at the time of enrollment.

The following are Medicare select demonstration States: Alabama, Arizona, California, Florida, Illinois, Indiana, Kentucky, Massachusetts, Minnesota, Missouri, North Dakota, Ohio, Texas, Washington, and Wisconsin.

As of October 1994, approximately 450,000 beneficiaries were enrolled in Medicare select; while the majority are covered through Blue Cross/Blue Shield plans, approximately 50 companies offer Medicare select products.

Current authority for the program expires in June 1995. Failure to extend the authority for the program would result in the inability of insurers to enroll new beneficiaries in Medicare Select Programs as of July 1995, although they could continue to serve current enrollees. This would lead to higher premiums for enrollees and the potential withdrawal of insurers from the market.

Is that what we want? It seems to me that none of our people want that. The gentleman from California has stated that Medicare select plans are not adequately regulated and has told us how terrible the plans are. Well, that is his opinion. Here are the facts:

The National Association of Insurance Commissioners [NAIC] has testified in favor of the program and stated that out of the 10 Medicare select States that report into the NAIC's Complaint Data System, there were only 9 Medicare select complaints last year.

The program has been a very good one for senior citizens. In August 1994, Consumer Reports rated the top Medigap insurers nationwide. Eight out of ten of the top-rated 15 Medigap plans were Medicare Select Plans.

It is a very popular program in my home State of Florida where some 13,000 Medicare beneficiaries are enrolled.

I urge my colleagues to support this legislation so we may continue to provide older Americans with an often needed and in my opinion, necessary option.

□ 1200

Mr. BLILEY. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. BILBRAY], a member of the committee.

Mr. BILBRAY. Mr. Speaker, I have to stand in support of the proposal, and I just want to point out to my colleague from California there is a 100,000 Californian seniors that want that choice. I have a stack, I have stacks of comments coming from my seniors in my district saying how it is nice to be able to have options that Washington is not mandating on seniors, that seniors are allowed to be treated as dignified individuals. This program was something that has worked, is continuing to work, in our State, and to restrict it not only from the rest of the country, but to allow it to die, is not a vote in support of seniors and their dignity, but actually a support to replace the dignity of seniors' choices with big centralized Federal control systems, and I think the problem is some of our colleagues are so wedded to command and control, big, centralized government that they are willing to sacrifice our seniors' ability to have the dignity of having their choice to choose something that serves them, and I think that we need to start treating our seniors with the dignity they earned over the years.

Mr. DINGELL. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, I rise in opposition to the adoption of the conference report on H.R. 483, a bill to permit Medicare select policies to be offered in all States.

Let me state that I oppose adoption of this conference report reluctantly. We have underway in a limited number of States, including my own State of California, a demonstration project to study the value and effects of Medicare select policies. I favor letting that demonstration continue. I favor continuing to offer Medicare select policies where they are currently being tested under the demonstration.

But I have grave concerns about expanding Medicare select to all States. At the time this bill passed the House I raised these concerns and suggested the prudent course would be to wait and receive the evaluation of the demonstration that was underway. We did not.

Now, before the conference was concluded, HCFA provided us with some preliminary information that the evaluation was finding. And that information should give pause to any prudent legislator. They found that Medicare select was significantly associated with cost increases in spending in the Medicare program itself in 8 of the 12 States where select policies were offered.

Surely, on a day when the Republicans in this House passed over the nearly unanimous objection of the Democrats a budget which slashes Medicare spending by $270 billion over the next 7 years, it is folly to pass legislation which threatens to increase the cost to the public of Medicare so that more private insurance companies can reap profits on their Medicare select policies.

It is only prudent to stop this expansion of Medicare select until we can be sure that they are not adding to expenditures in the Medicare Program.

We might also pause and consider the irony of the actions we have taken today. Let's think about why we need MediGap and Medicare select policies in the first place.

We need these policies for one simple reason: Medicare requires people to pay a lot of money out-of-pocket when they get sick. Most Medicare beneficiaries are so frightened by the amounts they have to pay if they get sick that they spend hundreds of dollars to buy MediGap protection.

And yet, as a result of the Republican budget this House adopted today, people on Medicare are going to have to pay a lot more.

Their MediGap premiums will soar—whether they try to economize by using Medicare Select or not. And if they just can't afford a Medigap policy any more—they will live in fear of having to pay a lot of out-of-pocket costs.

Some 4 million seniors under this Republican budget may find that they can't even afford to pay the higher premium to keep Medicare Part B protection at all. Once Medicaid is an underfinanced block grant program—which is what the Republican budget makes it—seniors can forget about any assurance of help from Medicaid to pay their Medicare premiums.

Remember, who the typical person is who relies on Medicare. Most Medicare beneficiaries have modest incomes of $25,000 or less. Nearly a third of them depend on Social Security for almost all of their income. And now they are going to find that this Republican budget means that half of their Social Security COLA is being eaten up by increased premiums and cost-sharing in Medicare.

We ought to be talking today about how to make Medicare better—about how to help people who can't afford the prescription drugs they need, who fear ending up in a nursing home that they can't afford.

Instead this House adopted a Republican budget that slashes the Federal commitment to Medicare and Medicaid. And we now are about to adopt a conference report which extends a program which might be costing Medicare money instead of saving it.

This is not responsible legislating. This is not putting the interests of Medicare and Medicaid beneficiaries first.

I urge rejection of the conference report.

Mr. BLILEY. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Connecticut [Mrs. JOHNSON], the principal author of this legislation.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the gentleman from Virginia [Mr. BLILEY] for his leadership and hard work on getting this program before us for final action.

Mr. Speaker, I am very pleased to rise today in support of this final agreement to extend and expand Medicare select. This is the right kind of health plan choice for us to make available to all seniors in America at this time. Medicare select is a Medigap policy. That is it is just insurance covering costs and services that Medicare does not. The difference is the Medicare select enrollees get their care from a preferred provider organization, but they are still Medicare beneficiaries. Medicare will cover health care costs for them even if they go outside the network. By staying within the network beneficiaries make the best use of their coverage because the health plan picks up most or all of their out-of-pocket costs.

Medicare select is not, and I repeat, not, an HMO risk contracting plan. Such plans require beneficiaries to get their care entirely within the network or Medicare will not pay. With select, seniors in America have that choice to be part of an integrated system of care, but still go outside that system if they want to and if they choose to. Medicare covers their charges outside that network.

It is very important that, as we carry forward this debate and as we give seniors choices in America, they understand clearly what their choices are,

and so I want to make clear that my esteemed colleague from Michigan is not quite correct when he says that seniors would be locked into these programs. With due respect, in fact he is wrong. Any senior in this program, any Medicare Select System, can go outside that system and, as a Medicare beneficiary, can receive care under Medicare terms, but in addition any senior in a Medicare Select Program can change plans. They can drop this MediGap policy and pick up another MediGap policy, and in every single State in America there are MediGap policies on the market that have no exclusion for preexisting conditions that do not block any seniors out. In sum, in fact, the idea that any senior is locked into a Medicare select choice is simply not accurate, and that is important for seniors to know.

Medicare select also saves beneficiaries money. We know that seniors on fixed incomes have a tough time in this environment, and Medicare select saves them up to 38 percent premium costs.

Medicare select is not a Government program. It is an insurance program, and, as such, it is regulated at both the Federal and State levels. It operates around the Medicare Program, and in those States where it has been expanded, it is saving dollars.

In California with select the cost of medical services per admission is 20 percent lower than for nonnetwork providers. The average length of stay in a hospital is 73 percent lower than for nonnetwork providers, attesting to the management of care, the integration of care, and only one-third as many enrollees are ever admitted to a hospital from these integrated care systems, a great advantage for the elderly. A Washington State Medicare Select Plan operator has reported that Medicare select policies cost 13 percent less than the traditional insurance policy. Even after adjusting for demographic factors the plans realized a 5-percent savings to the Medicare Program.

Now those figures are about real experience. How does that real experience line up with some of the comments that my colleagues have made about the preliminary conclusions of the report that we, as Members of Congress, asked HCFA to do so that we can understand the strengths of this program and the weaknesses more fully?

This is basically how it boils out. That report is reporting very preliminary data. The researchers themselves say the results are inconclusive, but listen to what they say about those areas in which they have seen costs increase. The researchers suggest that under these managed care entities, that is the Medicare select plans, and I quote from the report, new patient screening has detected a large backlog of formerly undiagnosed and untreated problems. This has meant that new patients have unexpectedly large, albeit short-term requirements for medicare treatment. In other words, Medicare select plans are offering seniors far more careful, comprehensive analysis of their health care problems, and, yes, short term it costs more, and many of these plans that this report, this study, is reporting have only been in place 3 months, so we have only been through the high cost analysis and the early treatments.

In one of the States where the program has been in place since 1992, and they have 4 years of cost data, they are seeing significant savings. I ask, ''Isn't that just what we want? Don't we want early intervention? Don't we want prevention? Don't we want that backlog, the formerly undiagnosed and untreated problems, dealt with for seniors in America? And most importantly, don't we want seniors to have the choice, the voluntary choice, of that quality health plan?'' I, for one, do, and my constituents want this choice as well.

As a State that does not have a demonstration project, I get letters daily saying when are we going to have that choice. I urge my colleagues to adopt this conference report and to help us take the first step toward giving seniors in America better choices for their health care.

Mr. STARK. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Speaker, I thank my colleague for yielding me this time.

Mr. Speaker, I support Medicare select and will vote for the conference report to extend this program to all 50 States. If it is properly structured, it can provide more competition, choice and cost savings. However I must tell my colleagues I am concerned that the study that was commissioned by HCFA shows that there might be increased costs associated with Medicare Select Programs in at least eight States which currently have the program. But what primarily concerns me: It seems like this Congress is acting or making decisions on what appears to be facts. When we look at the information we may be acting on what we believe to be correct rather than what the facts show.

□ 1215

Congress is taking as fact that Medicare select extends managed care into the MediGap marketplace and it will save money. Yet when we look at the study, that may not be in fact the case unless the Medicare select program is properly structured. Is this a preview of what will happen when we get to the budget debate?

In the near future we are going to be called upon to act on legislation to cut the Medicare program by $270 billion. Are we going to make these decisions on fact or beliefs? There are very limited ways in which we can reduce the Medicare program by $270 billion. We are going to be calling upon our beneficiaries to pay more, higher copays and deductibles, putting more pressure on the Medicare select program.

We are going to be asking our seniors who already as a class pay the highest amount of out-of-pocket costs, on average 21 percent of their income is used for out-of-pocket costs. If we are going to be talking about $27 billion in Medicare cuts, we are going to be asking our seniors to pay more in copays and deductibles. Will we be acting on our beliefs or on facts?

I am very concerned about that, Mr. Speaker, and concerned that we will not be looking at what impact those types of cuts will have on our seniors. I am worried that we are going to have to cut benefits. The Medicare program already does not cover prescription drugs and very little benefits for long-term care, really no catastrophic care. Yet we are going to be asked to make cuts in the program that could very well take away benefits from our seniors on the belief that that may be acceptable. I want to act upon fact.

We already have inadequate reimbursement levels and cost shifting within the Medicare system, causing in many areas our seniors to be jeopardized from receiving quality care. Are we going to be asked to make additional cuts that could very well cause more cost shifting and less adequate care to our seniors on the belief that that can be absorbed? I want to act upon facts.

The consequences of our actions will dramatically affect our Nation's seniors and their health care. It is imperative that we make these changes based upon the best data available, not just data that we choose to believe.

I hope in the future when we act upon Medicare that we do it upon the facts.

Mr. BLILEY. Mr. Speaker, may I inquire how much time remains?

The SPEAKER pro tempore. The gentleman from Virginia [Mr. BLILEY] has 13 minutes remaining, the gentleman from Michigan [Mr. DINGELL] has 4½ minutes remaining, and the gentleman from California [Mr. STARK] has 5 minutes remaining.

Mr. BLILEY. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. THOMAS].

Mr. THOMAS. Mr. Speaker, I thank the gentleman for yielding time to me. As chairman of the House subcommittee of the Committee on Ways and Means, we have looked at this over a period of time.

As a member of the conference committee, we produced a conference report. I am a little confused by the gentleman from Maryland's statement that we would want to base a decision as to whether or not we would go forward with the program on a permanent basis on facts rather than just assumptions or desires or wishes or hopes.

I can only assume that the gentleman from Maryland did not read the conference report, because I would join him, if, in fact, we were talking about creating a permanent program without a basis of analysis of a pilot program.

Despite what may have been from any of the speakers who are in opposition to this, all this does is continue a program until the Secretary determines that, in fact, there are savings, that this is a better program. If the Secretary of Health and Human Services, after a 3-year study, says that this is not saving money, it is not a better program, the program ends. If she finds it does, it goes forward.

So, first of all, the conference report says, we are going to take this pilot program that is in 15 States, make it available to 50 States, but not on a permanent basis. We are going to examine the results after 3 years. And then we will make a determination as to whether or not it is to be permanent.

We heard talk about a study over here. As a matter of fact, on the earlier pilot program, there was supposed to be a study reported to Congress in January. Six months later, it still has not issued a report. What they are talking about is a preliminary finding which was leaked by this administration.

We had the head of the Health Care Financing Administration in front of the subcommittee in which we said, you know, this seems to be a politically charged issue. We have folks who are taking extreme positions and making statements not based upon fact for whatever reason they choose to do so, and I am concerned about the political atmosphere.

So, Mr. Valdeck, please make sure that your operation does not prematurely leak information which may not have been fully evaluated about this program.

Mr. Valdeck in front of the Health Subcommittee said, you bet; we will make sure this information does not come out until it has been analyzed and properly understood and presented. Lo and behold, several weeks ago, initially on the Senate side and now we have heard statements read here that are supposedly flat-out statements of fact that this study shows that there are higher costs. In fact, that is not the case.

Mr. Valdeck apparently was so embarrassed by this that he wrote me a personal note saying that he was embarrassed that the study had gotten out prematurely, that it has not been vetted. They have not done the proper correlations in the study. Somebody is very interested in killing this modest little proposal.

Let us go back and remember what this is. Currently there are 10 programs available to seniors to augment their Medicare program. They are called MediGap. They are insurance programs that fill in where Medicare does not offer as complete a package as people would want. What we are doing is talking about adding one more, an 11th to the 10 that are already there, fully monitored by Health and Human Services. In fact, you have got to explain exactly what you are doing. You have to pass a standardized examination to make sure that you are doing what everybody else is doing. There are categories that have to be met. The seniors are fully protected and they have a choice.

It is not mandated. You choose. We are simply saying instead of 10 choices, we are going to offer 11 choices.

You would think that we are reinventing the wheel by offering seniors 11 choices rather than 10. All we are doing is saying that the 11th choice is of a kind of health care delivery service that more and more Americans find saving them money. That is what this is all about. These fellows over here who used to be the chairmen of the Health Subcommittee and Ways and Means, and the gentleman from California [Mr. WAXMAN] who spoke earlier was the chairman of the Health Subcommittee of Commerce, and the gentleman from Michigan was the chairman of Commerce, they are used to bottling up reform and change, especially the kind that had the private sector driving down costs in health care.

They are kind of frustrated because with this new majority, different people are in charge. We want to try these new ideas, fully protected with studies by the Secretary making a determination as to whether it goes forward or not.

So I understand their frustration. But in trying to deal with this frustration of being a new minority, you really ought to rely on facts rather than the kind of fear mongering and conjuring up of seniors deserted by their Government when you talk about the Medicare select program.

The gentleman from North Dakota was absolutely right. This is a modest little program. We think it will save money. Four hundred eight Members of Congress, both Democrat and Republican, voted for this the first time around; 14 voted against it. We have high hopes that the same 408 and perhaps some of the 14 who voted against this might join in in sending it to the President today so that on this last day of the pilot program the President will sign this bill so that the seniors will not be fearful that this option will not be available to them.

We are going to pass it today. I have high hopes the President will sign it tonight and then we will move on to more fundamental real reform where seniors will see that more choices will be available to them and that their Medicare dollar expenses will be covered by an ever-increasing amount from the Federal Government.

Those are the facts.

Mr. STARK. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, I thank the gentleman for yielding time to me.

The Medicare Select Program as a model deserves support, and it should be renewed. In fact, we should expand the model, but we should keep it as a model until we know how well in fact it is going to work and what the difficulties in it are. And we already have reports that tell us there are difficulties in it.

So, yes, we would like to see the program continued, but that is not what is going on here. This is a full-scale expansion of the program. We are not certain it works that well. And they want to put it, the Republicans do, in every State in this country. Now, why? and why today?

Because yesterday the Republicans voted to cut Medicare. I know they say they did not cut Medicare but, my senior citizen friends, inflation is going to continue in health care; right? Of course. And new people are going to come into the system, of course. Are they going to receive the same services that today's senior citizens receive on Medicare? No, because the Republicans are going to cut close to $300 billion out of what is needed to meet current services. So do not let them tell you they are not cutting the program.

This proposal being brought to the floor today is a duck and cover for yesterday's action of cutting close to $300 billion.

There is a second reason that they are expanding this program and that is because the lobbyists, including the health care insurance lobbyists, are in full throat and are writing legislation for the Republican leadership.

I chaired one of the subcommittees along with the gentlemen from California Mr. STARK and Mr. WAXMAN, that tried to reform national health care last time. And I learned something, I learned a lot, as chairman of that committee, as we passed out health care reform bills last Congress.

But I learned one thing that I will never forget and that is, you can trust some of the health care insurance industry some of the time, but you cannot trust all of them all of the time. This country has to keep one eye on the insurance company, and this bill takes both Federal eyes off of the health care insurance industry. And senior citizens will rue the day we did it.

Mr. BLILEY. Mr. Speaker, do I have the right to close?

The SPEAKER pro tempore. The gentleman from Virginia [Mr. BLILEY] has the right to close.

Mr. BLILEY. Mr. Speaker, I reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, how much time do we now have remaining?

The SPEAKER pro tempore. The gentleman from Michigan [Mr. Dingell] has 4½ minutes remaining, the gentleman from Virginia [Mr. BLILEY] has 7 minutes remaining, and the gentleman from California [Mr. STARK] has 3 minutes remaining.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Michigan [Mr. KILDEE].

□ 1230

Mr. KILDEE. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I am deeply concerned about Medicare this year. First of all,

we know that the Republican budget will cut Medicare by $270 billion over the next 7 years. That certainly has to be taken into consideration in the context of this bill. This bill, while it may have some merit, the plan may have some merit, I do not think we should be expanding it as this bill would propose. The bill does allow insurance companies to sell insurance policies to seniors that limit their choice, and they may be locked into those choices.

Basically, Mr. Speaker, I fear that this year, this 104th Congress, we may see a series of things that will be weakening Medicare. First of all, this program itself is a pilot program. We should look at it more. One study indicates that it increases the cost about 17½ percent per beneficiary in 8 of the 12 States, and in only 1 State was there some possible cost savings.

However, put that in context again with what I mentioned in the beginning, that we are cutting $270 billion from Medicare. We have to cast this bill in that context. We are using that cut from Medicare to pay for a tax cut for our very rich.

Mr. Speaker, in my district, I do not see people asking for that tax cut, and especially, I think they do not want to take money from Medicare to pay for that tax cut. My mother died last year at age 84. In her life, both her mental health, her peace of mind, and her physical health was better served because of a good Medicare Program. We should approach this very, very carefully. Do not rob the account and do not expand this program without experience.

Mr. STARK. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Washington [Mr. MCDERMOTT].

(Mr. MCDERMOTT asked and was given permission to revise and extend his remarks.)

Mr. MCDERMOTT. Mr. Speaker, this is a perfect example of the triumph of ideology over American pragmatism. The Republicans say they are going to save the fund. First they take $86 billion out by a tax break. Then they take another $280 billion out by the cuts they are going to make. Then their solution is to pick a solution that does not work.

There was a study done by the Research Triangle Institute which says it spends 17½ percent more for select than it does in the system we have today, which means they are going to spend it down quicker. The real result of their efforts is to get rid of Medicare. They want to break the system 17 percent faster by putting people into select. That is not a solution. It simply makes the problem worse. Everyone should understand it and vote ''no.''

Mr. DINGELL. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. DINGELL] is recognized for 2½ minutes.

Mr. DINGELL. Mr. Speaker, hurry, hurry, hurry. Let us get this bill through. Let us get it through before the facts are in. Let us get it in before it shows that this package for Medicare Select is in fact going to cost Medicare or the taxpayers more.

Hurry, hurry, hurry. Let us get it through before it shows that the senior citizen recipients of Medicare are not going to get the option to move from policy to policy on their health insurance packages which would supplement their Medicare policies; and hurry, hurry, hurry, before it comes out that a policy which costs about $870 is going to go up to something like about $2,300 by the time you get to 85, if you buy it for $870 at age 67. Mr. Speaker, let us get this thing through before the people find out what we are about. That is what my Republican colleagues are saying. That is what is at issue today.

What is good legislative practice and good legislation? It requires that we should wait and find out what the facts are. The information is already out. Medicare select is costing on the average 17½ percent more. That means that Medicare select is going to cost the Medicare trust fund 17½ percent more. It is going to trap senior citizens in policies on supplemental benefits that will not be able to be carried to new insurers because of preexisting conditions. Costs are going to go up.

Senior citizens are not going to know this at the time that their good-hearted insurance salesman comes around to peddle them this wonderful new Medicare Select. The taxpayers are not going to know that this is in fact going to cause the Medicare trust fund to go broke faster.

Hurry, hurry, hurry. Pass this thing before anybody finds out what is going on. Do it in a conference which takes less than 1 minute by the clock, and then have to be rescued by the Committee on Rules because such a poor job of legislation was done. Mr. Speaker, this is the way we are legislating today.

I would urge Members to vote this outrage down and let us proceed more cautiously. Let us protect the public. Let us see to it that senior citizens, the Medicare trust fund, and the American people get decent treatment here from this Congress today.

Mr. STARK. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The gentleman from California [Mr. STARK] is recognized for 2 minutes.

(Mr. STARK asked and was given permission to revise and extend his remarks, and include extraneous matter.)

Mr. STARK. Mr. Speaker, the reason to vote no on this bill is to give the Congress time to perfect the necessary structures and regulations for Medicare Select to work. Indeed, it does work in California. The trouble is, there is only one insurance company, Blue Cross, who has been importuning Members to support it, because the insurance commissioner will not allow it.

The corporation commissioner does, giving Blue Cross a monopoly. That is not fair in California, either. If it is good in California, let us let other insurance companies sell it. Somebody brought up the good name of the Consumers Union. They did in fact mention some of these policies. However, let me summarize Consumers Union's recommendations to the Subcommittee on Health of the Committee on Ways and Means in February of this year.

Consumers Union stated that:

Congress should study the impact of further negotiated discounts . . . before rushing to extend the Medicare Select program. . . . Research done to date indicates that the Medicare Select . . . has not achieved its goals. It has resulted in a marketplace in which premium pricing games distort the true cost of the policy. It has not achieved cost savings, but merely shifts costs to other consumers. Few insurers and few consumers have participated. In many States, regulation of this product has fallen between the cracks of different regulatory agencies—is it insurance or managed care?—leaving consumers without the protections they need. Congress should not expand the program and make it permanent, but should take steps now to fix what is broken, and what is broken is the pricing structure, the need for open enrollment, and await further study results before locking the program into place. With respect to Medicare Select, Consumers Union would urge you to proceed with caution.

I would join with the distinguished gentleman from Michigan [Mr. DINGELL] and others, and urge Members to vote ''no'' to protect the consumers, to protect the Medicare trust fund which the Republicans are going to dismantle and destroy, $1 billion here, $1 billion there, $84 billion to rich seniors, $270 billion to pay the tax cuts to the very richest in this country. Do not let them destroy Medicare any further. Vote ''no.''

SUMMARY OF CONSUMERS UNION TESTIMONY ON MEDICARE SELECT, FEBRUARY 10, 1995

Medicare Select is a cross between traditional Medicare supplement policies (''medigap'') and HMO's. We urge caution when it comes to expanding Medicare Select or making it permanent because of the following major problems:

Pricing games: Medicare Select policies often offer cheaper premiums to begin with. But because of a system of so-called ''attained age'' pricing that many policies use, premiums will rise steeply as the policyholder gets older. Congress should not lock-in or expand a program which perpetuates this deceptive pricing practice.

Illusory Cost Savings: Medicare Select premiums are often low, but at a cost to other Americans. Insurance companies that write Medicare Select policies typically don't pay the deductible to the hospital that other medigap policies are designed to pay. But the hospital still has to cover its costs. The result: it shifts the cost to other patients—and their insurers.

The Medigap Maze: The whole idea behind the OBRA medigap reforms was to allow consumers to make kitchen table comparisons among plans. But the Medicare Select program doesn't forward that goal. Medicare Select adds a layer of confusion by forcing consumers to balance initially lower premiums against restricted freedom of choice of doctor or hospital.

We believe that it is premature to expand or make permanent the Medicare Select program. Preliminary analysis of the program

indicates that so far it has not been successful in reducing costs or even attracting substantial interest from insurers or consumers. We recommend that Congress:

Require ALL states to do what several states have already done: community rate their medigap market to eliminate the hazardous pricing structure used by many Medicare Select plans (and level the playing field among all insurers). Alternatively, condition a state's ability to participate in Medicare Select to a statewide requirement of community rating for the medigap market.

Require a six month open enrollment period for all consumers who were previously enrolled in Medicare Select. (Currently, in many cases, they are not eligible if their Medicare Select insurer does not offer a traditional policy.)

Limit the extension of Medicare Select to a two-year time period that would allow for analysis of cost savings and quality control. Such a study is currently underway at HCFA. Postpone expansion of the program to additional states until the studies are complete and regulatory adjustments can be put in place.

Consumers Union[1] appreciates the opportunity to present our views on the issue of Medicare Select. We have spent several years monitoring the medigap market and working to improve protections for seniors who buy medigap policies. We worked in support of this Subcommittee's efforts to fix the problems in this marketplace, efforts that culminated in the historic enactment of OBRA–90 medigap reforms. These reforms made it much easier for consumers to comparison-shop among so-called medigap policies, which are designed to fill in the gaps in coverage left by Medicare. We continue to believe that these reforms serve as a valuable model for future legislation in areas such as long-term care insurance and regulation of a supplemental market in future health reform.

This testimony addresses one aspect of the Medicare supplement insurance market—Medicare Select. Medicare Select is a cross between traditional Medicare supplement (or medigap) policies and HMO's. In return for initially cheaper premiums, consumers agree to obtain care within a designated network of doctors—in order to be reimbursed for the costs covered by the policy. (Medicare still provides coverage, regardless of whether the provider is in the Select network.)

We believe that there are several problems with Medicare Select. In the big picture, Medicare Select represents a diversion from the tough issue of reining in Medicare costs—through managed care or other steps. Pressing questions that this Subcommittee must address include: to what extent do HMO's—which limit seniors freedom of choice of doctor—truly save costs (or merely select the healthy risks)? Is there adequate quality assurance in Medicare risk contracts? Is there sufficient ability for consumers who do not feel well-served by Medicare HMO's to pick up traditional Medicare/medigap coverage? Is it possible—and fair to seniors—to ratchet down the Medicare budget without achieving cost control in the private insurance sector (in the context of overall health care reform)?

There are several major problems with the Medicare Select market and we urge caution when it comes to making Medicare Select a permanent program:

Pricing games: Medicare Select policies often offer cheaper premiums to begin with. But because of a system of so-called ''attained age'' pricing that many policies use, premiums will rise steeply as the policyholder gets older. Congress should not lock-in or expand a program which perpetuates this deceptive pricing practice.

Illusory Cost Savings: Medicare Select premiums are often low, but at a cost to other Americans. Insurance companies that write Medicare Select policies typically don't pay the deductible to the hospital that other medigap policies are designed to pay. But the hospital still has to cover its costs. The result: it shifts the cost to other patients—and their insurers.

The Medigap Maze: The whole idea behind the OBRA–90 medigap reforms was to allow consumers to make kitchen table comparisons among plans. But the Medicare Select program doesn't forward that goal. Medicare Select adds a layer of confusion by forcing consumers to balance initially lower premiums against restricted freedom of choice of doctor or hospital.

Summary of Recommendations

We believe that it is premature to expand or make permanent the Medicare Select program because of these problems and others described below. Preliminary analysis of the program indicates that so far it has not been successful in reducing costs or even attracting substantial interest from insurers or consumers. We recommend that Congress:

Require ALL states to do what several states have already done: community rate their medigap market to eliminate the hazardous pricing structure used by many Medicare Select plans (and level the playing field among all insurers). Alternatively, condition a state's ability to participate in Medicare Select to a state-wide requirement of community rating for the medigap market.

Require a six-month open enrollment period for all consumers who were previously enrolled in Medicare Select.

Limit the extension of Medicare Select to a two-year time period that would allow for study and analysis (that is currently under way by HCFA) of cost savings (vs. cost shifting) and quality control. Postpone expansion of the program to additional states until the studies are complete and regulatory adjustments can be put in place.

We elaborate on our concerns and recommendations below.

Analysis of the Medicare Select Market

Pricing games

Medicare Select policies often use an ''attained age'' pricing structure, which Consumer Reports says is ''hazardous to policyholders.'' Various letters and comments regarding Medicare Select have noted that Consumer Reports found that eight of the top 15 Medigap products were Medicare Select. But this tells only part of the story. Five of the eight policies mentioned use an attained-age pricing structure. Consumer Reports stated that:

Attained-age policies are hazardous to policyholders. By age 75, 80, or 85, a policyholder may find that coverage has become unaffordable—just when the onset of poor health could make it impossible to buy a new, less expensive policy. Take, for example, an attained-age Plan F offered by New York Life and an issue-age Plan F offered by United American. For someone age 65, the New York Life policy is about $114 a year cheaper. But by age 80, the buyer of the New York Life policy would have spent a total of $5,000 more than the buyer of the United American policy.[2]

The attained-age pricing structure allows companies to bait consumers with low premiums in early years, and then trap them with high increases in later years. Standardization of the medigap market resulted in price conscious consumers, with the effect of facilitating a trend away from community-rated policies and toward attained-age rated policies. The percent of Blue Cross-Blue Shield affiliates, for example, that sell attained-age policies grew from 31 percent in 1990 to 55 percent in 1993.

Ten states have recognized this market dynamic and have taken steps to protect consumer either by requiring community rating for this market or by banning attained-age rating. These are Arkansas, Connecticut, Florida, Georgia, Idaho, Maine, Massachusetts, Minnesota, New York, and Washington. Four of these states—Florida, Massachusetts, Minnesota and Washington—are part of the Medicare Select demonstration program.[3]

Recommendation: Require ALL states to do what several states have already done: community rate their medigap market to eliminate the hazardous pricing structure used by many Medicare Select plans (and level the playing field among all insurers). Alternatively, condition a state's ability to participate in Medicare Select to a statewide requirement of community rating for the medigap market.

Illusory cost savings

The purpose of Medicare Select was to cut health care costs through coordinated care networks that increase the use of utilization review and management controls, often through PPO's. It was expected that enrollees would be restricted to a subset of providers. But the experience shows that often there is no restriction of providers. There is little coordination or management of care in Select plans.[4]

Medicare Select premiums may be low for the wrong reasons—because these policies shift costs to others by not covering all the costs that traditional medigap policies must cover. Medicare Select companies often negotiate with providers to eliminate the payment of Part A deductibles. Insurers have indicated that the discounts of the Part A deductible by participating hospitals is the most significant source of premium savings available in Medicare supplements.[5] This means that hospitals get less reimbursement from Medicare Select carriers. It does not mean that the hospital's costs are lower, so cost shifting to other patients (and their insurers) is inevitable.

Before extending Medicare Select to additional states (or for a substantial time period), we urge you to study further why Medicare Select premiums are often low. Are they cutting premiums for their policyholders merely by shifting costs to other payers? Another issue of concern to us is whether the Medicare Select markets in each state are truly competitive. We understand that in California, for example, there is only one key Medicare Select carrier (Blue Cross).[6] A study prepared for HCFA found that three-fourths of Medicare Select enrollees have policies from affiliates of three Blue Cross and Blue Shield plans (in Alabama, California and Minnesota), hardly an indication of a truly competitive marketplace.[7] We urge you to study the level of competition in this marketplace, recognizing of course that traditional medigap policies do compete with medicare Select policies.

Recommendation: Limit the extension of Medicare Select to a two-year time period that would allow for study and analysis (that is currently underway by HCFA) of cost savings (vs. cost shifting) and quality control. Postpone expansion of the program to additional states until the studies are complete and regulatory adjustments can be put in place.

Medigap maze

A key goal of the medigap reform legislation that was included in OBRA–'90 was to provide true consumer choice of medigap

Footnotes at end of article.

policy by standardizing policies, thereby simplifying the choice. In light of the minimal role the Medicare Select products have made in this marketplace, we question whether the expanded complexity offers consumers significant benefits. Consumers (in Medicare Select states) must decide between Medicare only, Medicare risk plans, Medicare cost plans, health care prepayment plans, medicare Select plans, and traditional Medicare supplement policies. They can't even consider which of 10 standard packages to consider until they have made this choice.

Furthermore, insurers have indicated that the 10 standard medigap plans are appropriate for fee-for-service (traditional) medigap policies, but not for network Medicare Select products.[8] If Medicare Select necessitates an additional one or more standard policies, then simplicity is further undercut.

NEED TO AWAIT STUDY RESULTS

Medicare Select was included in OBRA–90 medigap reform legislation as a demonstration program. Medicare Select was established with the hope of achieving goals such as reducing health care costs (both for the Medicare program and consumers) and reducing the paperwork burden on consumers (since Medicare Select plans relieve consumers of the paperwork burden inherent in filing claims). It should not be made permanent until studies of its effectiveness have been completed. The preliminary report (February 1994) paints a picture of Medicare Select that is hardly complimentary. A tiny percent of people eligible have enrolled; a small fraction of insurers participate; cost savings appear to be superficial only and may be cost-shifting in disguise; the market is highly concentrated; Medicare Select regulation often falls between the cracks in state regulatory departments.

Some specific findings that should set off alarms to put on the brakes—not rush ahead with a permanent expansion—include:

Some states (e.g., Arizona) have found that market response has been poor and that beneficiaries tend to migrate back to traditional plans.[9]

Several states that were selected for the program could not get it off the ground and dropped out.[10] Others have had no applications for select plans.[11]

When studied by RTI, only 2.5 percent of eligible Medicare enrollees selected Medicare Select policies, and most of these ''rolled over'' from prestandardization products. It appears that consumers are not, in general, attracted to Medicare Select policies.[12]

Nor are insurers attracted to the Medicare Select product: only ten percent of HMOs and medigap insurers in Select sates offer Medicare Select policies, with even interest in some states.[13]

Recommendation: Congress should delay expanding and making permanent the Medicare Select program until further study results are available. It should not be made permanent without fixing the elements that are broken.

REGULATORY GAPS

Medicare Select is fraught with questions about regulatory authority. It is not unusual for a state's insurance department to regulate fee-for-service medigap coverage, but another state department (e.g, Department of Public Health or Department of Corporations) to regulate Select products. It is very possible that Medicare Select policies get lost in the regulatory cracks where authority for traditional insurance and HMO's is split. This confusion has even led to approval of plans (as Select) that deviate from the OBRA '90 standard plan designs.[14]

Medicare Select consumers need regulatory protection. For example, consumers switching out of Medicare Select need protection. Consumers who choose a Medicare Select option must use providers in the designated network in order to get medigap coverage. The NAIC model regulation provided protection to consumers who elect Medicare Select but then wish to change to traditional medigap policy. Companies were required to offer such consumers a policy with similar benefits, without underwriting. But this provision has a loophole—consumers have no assurance of such an offer if the Medicare Select company does not offer a traditional (''fee-for-service'') medigap policy.

In the event that Congress decides to end the Medicare Select program, either now or in the future, then consumers who have Select policies when the program is ended will need protection. Without new entrants in their pool, their premiums (in closed blocks of business) would spiral upwards. They will need the protection from such an open enrollment period.

Recommendation: Congress should require that all policyholders who wish to switch out of Medicare Select be eligible for an open enrollment period (regardless of which company they select) in order to protect them against being locked into a Medicare Select plan that they do not like.[15] This protection would actually help to promote the Medicare Select option because consumers would have a safety valve if they are dissatisfied. If Congress chooses to end the Medicare Select program, insurers should be required to extend an open enrollment period to Medicare Select policyholders. We urge the Congress to study carefully the regulatory experience and analyze where regulatory authority for Medicare Select is best housed.

DOES MEDICARE SELECT COMPROMISE QUALITY?

Medicare Select policies keep premiums low by negotiating lower reimbursement schedules with providers (mostly hospital), providing discounts to policyholders. On average Medicare pays doctors and hospitals about 59 percent of what private insurers pay for the same services. If (in the future) Medicare Select coverage is negotiated downward (e.g., providing Select policies with Part B discounts also), providers will get even less. At some point, the cumulative impact of lower reimbursement has got to have an impact on quality of care that patients receive. This could occur when providers withdraw from providing services to consumers, or when they cut corners (such as patient time) due to the lower reimbursement levels.

Recommendation: Congress should study the impact of further negotiated discounts for providers before rushing to extend the Medicare Select program.

In conclusion, research done to date indicates that the Medicare Select demonstration program has not achieved its goals. It has resulted in a marketplace in which premium pricing games distort the true cost of the policy. It has not achieved cost savings, but merely shifts costs to other consumers. Few insurers and few consumers have participated. In many states, regulation of this product has fallen between the cracks of different regulatory agencies (is it insurance or managed care?), leaving consumers without the protections they need. Congress should not expand the program and make it permanent, but should take steps now to fix what is broken (the pricing structure, the need for open enrollment) and await further study results before locking the program into place. With respect to Medicare Select, we urge you to proceed with caution.

Thank you for considering our views.

FOOTNOTES

[1] Consumers Union is a nonprofit membership organization chartered in 1936 under the laws of the State of New York to provide consumers with information, education and counsel about goods, services, health, and personal finance; and to initiate and cooperate with individual and group efforts to maintain and enhance the quality of life for consumers. Consumers Union's income is solely derived from the sale of Consumer Reports, its other publications and from noncommercial contributions, grants and fees. In addition to reports on Consumers' Union's own product testing, Consumer Reports with approximately 5 million paid circulation, regularly, carries articles on health, product safety, marketplace economics and legislative, judicial and regulatory actions which affect consumer welfare. Consumers Union's publications carry no advertising and receive no commercial support.

[2] ''Filling the Gaps in Medicare,'' Consumer Reports, August 1994, p. 526.

[3] It is premature to evaluate the impact of the combination of Medicare select and community rating, since two states (Massachusetts and Washington) are new to Medicare select and since community rating requirements are fairly recent.

[4] ''Evaluation of the Medicare SELECT Amendments—Case Study Report, RTI Project No. 32U–5531, prepared for Office of Demonstrations and Evaluations, Health Care Financing Administration, U.S. Department of Health and Human Services, February 10, 1994, RTI, p. XX–3.

[5] RTI, p. xi.

[6] Three other plans: Foundation Health Plans; National Med; and Omni Health Plan have been approved but had minimal enrollment, that totals less than 500. [RTI, p. IV–17]

[7] p. ix.

[8] RTI, p. xiii.

[9] RTI, p. III–6.

[10] E.g., Oregon and Michigan. RTI, p. XV–1.

[11] E.g., Illinois. RTI, p. XV–3.

[12] RTI, p. ix.

[13] RTI, p. ix.

[14] See, for example, RTI, p. IV–9, IV–10.

[15] In Florida, Select insurers are required to offer at least a basic Plan A in a non-Select form, providing partial protection for people who wish to switch out of Select plans. One side-effect: this provision makes it infeasible for HMO's to offer SELECT plans.

Mr. BLILEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this has been an interesting debate. It has been about a lot of things, it has been about almost everything except the underlying legislation. We have talked about the budget, we have talked about Medicare in general we have been told ''why the rush?'' The gentleman who poses the question knows full well why we are acting today. This is a demonstration project that expires today, if we do not act. That is why we are here. That is why I urge it to be passed. I am sure that it will be.

We have also heard about the fact that it might cost more. That is interesting, Mr. Speaker, because when this bill was first passed several years ago, a study was supposed to be done. It was supposed to be available in January, but of course the administration advised us that it would not be ready and it would not be ready for months, so they could not provide it to the authorizing committees as the legislation was being crafted.

However, just a few weeks ago, Mr. Speaker, mysteriously, part of the information, not the full report, was leaked, not to the committees of jurisdiction, but to a Member of the other body who is opposed to the legislation. I find that rather curious. Needless to say, this is not the usual method the administration uses to provide committees of jurisdiction with important information.

Mr. Speaker, time is wasting. We need to get on with this program. Let

me finally end this by saying, No. 1, the study that is required before this program expires in 3 years requires the Secretary to discontinue the program if it is found that Medicare select: has not resulted in savings of premium costs to beneficiaries compared to non-select MediGap policies;

Second, they cannot extend it if it shows that it has resulted in significant additional expenditures for the program; or

Third, it cannot be extended if it results in the diminished access in quality of care. There are plenty of safeguards to ensure that beneficiaries are well protected. I urge my colleagues to join me in supporting the conference report.

Mrs. COLLINS of Illinois. Mr. Speaker, I rise in opposition to the conference report on H.R. 483, the Expanded Use of Medicare Select Policies Act. While I recognize the role that the Medicare select demonstration program that currently exists in my State of Illinois and 14 other States plays, I am concerned that this legislation is being used as a cover for the draconian $270 billion in Medicare cuts included in the budget resolution conference report that passed this body yesterday.

Under the Medicare Select Program, senior citizens on Medicare are allowed to buy private MediGap insurance policies through managed-care providers to supplement what Medicare does not cover. An important objective, but following what happened here yesterday with the GOP budget plan, Medicare select could easily become the only health care option for seniors, as Medicare is gutted, services are curtailed, and older folks have to pick up the pieces through private plans. The end result will be less access to services and higher out-of-pocket costs.

It is crystal clear to anyone watching the actions of the majority party in the 104th Congress that devastating changes to Medicare are ahead. There is rampant GOP discussions ongoing about turning Medicare into block grants for the States and based on what happened in the House welfare reform legislation to the Federal School Lunch and Breakfast Programs, I know that ''block grant'' is a code word for cutting, slashing, and eliminating.

Let's not fool anyone Mr. Speaker, H.R. 483 is one of the first threads with which to unravel the entire Medicare system. I have far too many senior citizens in my district who depend on Medicare and would be crippled by Republican cuts to the program to allow it to be treated as it has by the Speaker and his cronies.

I urge my colleagues to vote ''no'' on this conference report and reject the Republicans' attempts to balance the budget on the backs of seniors and then hand them the check when the bill comes due.

Mr. Speaker, I yield back the balance of my time and I move the previous question.

The SPEAKER pro tempore. Pursuant to House Resolution 180, the previous question is ordered.

The question is on the conference report.

Mr. DINGELL. Mr. Speaker, on that I demand the yeas and nays.

The SPEAKER pro tempore. Under the rule, the yeas and nays are ordered.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 350, nays 68, not voting 16, as follows:

[Roll No. 467]

YEAS—350

Ackerman	Edwards	Kolbe
Allard	Ehlers	LaHood
Andrews	Ehrlich	Lantos
Archer	Emerson	Largent
Armey	Engel	Latham
Bachus	English	LaTourette
Baesler	Ensign	Laughlin
Baker (CA)	Eshoo	Lazio
Baker (LA)	Everett	Leach
Baldacci	Ewing	Levin
Ballenger	Farr	Lewis (CA)
Barcia	Fawell	Lewis (KY)
Barr	Fazio	Lightfoot
Barrett (NE)	Flake	Lincoln
Barrett (WI)	Flanagan	Linder
Bartlett	Foley	Lipinski
Barton	Forbes	Livingston
Bass	Fowler	LoBiondo
Bateman	Fox	Lofgren
Becerra	Franks (CT)	Longley
Beilenson	Franks (NJ)	Lowey
Bentsen	Frelinghuysen	Lucas
Bereuter	Frisa	Luther
Berman	Frost	Maloney
Bevill	Funderburk	Manzullo
Bilbray	Furse	Martini
Bilirakis	Ganske	Mascara
Bishop	Gejdenson	Matsui
Bliley	Gekas	McCarthy
Blute	Gephardt	McCollum
Boehlert	Geren	McCrery
Bonilla	Gilchrest	McDade
Bono	Gillmor	McHale
Brewster	Gilman	McHugh
Browder	Goodlatte	McInnis
Brown (CA)	Goodling	McIntosh
Brown (OH)	Gordon	McKeon
Brownback	Goss	McNulty
Bryant (TN)	Graham	Meehan
Bunn	Green	Menendez
Bunning	Greenwood	Metcalf
Burr	Gunderson	Meyers
Burton	Gutierrez	Mfume
Buyer	Gutknecht	Mica
Callahan	Hall (OH)	Miller (FL)
Calvert	Hall (TX)	Mineta
Camp	Hamilton	Minge
Canady	Hancock	Molinari
Cardin	Hansen	Mollohan
Castle	Harman	Montgomery
Chabot	Hastert	Moorhead
Chambliss	Hastings (WA)	Moran
Chapman	Hayes	Morella
Chenoweth	Hayworth	Myers
Christensen	Hefley	Myrick
Chrysler	Hefner	Neal
Clayton	Heineman	Nethercutt
Clinger	Herger	Neumann
Coble	Hilleary	Ney
Collins (GA)	Hobson	Nussle
Combest	Hoekstra	Oberstar
Condit	Hoke	Obey
Cooley	Holden	Ortiz
Costello	Horn	Orton
Cox	Hostettler	Oxley
Cramer	Houghton	Packard
Crane	Hoyer	Pallone
Crapo	Hunter	Parker
Cremeans	Hutchinson	Pastor
Cubin	Hyde	Paxon
Cunningham	Inglis	Payne (VA)
Danner	Istook	Peterson (FL)
Davis	Jackson-Lee	Peterson (MN)
de la Garza	Jacobs	Petri
Deal	Johnson (CT)	Pickett
DeLauro	Johnson (SD)	Pombo
DeLay	Johnson, E. B.	Pomeroy
Deutsch	Johnson, Sam	Porter
Diaz-Balart	Johnston	Portman
Dickey	Jones	Poshard
Dicks	Kaptur	Pryce
Dixon	Kasich	Quillen
Doggett	Kelly	Quinn
Dooley	Kennedy (MA)	Radanovich
Doolittle	Kennelly	Rahall
Dornan	Kim	Ramstad
Doyle	King	Reed
Dreier	Kingston	Regula
Duncan	Kleczka	Richardson
Dunn	Klug	Riggs
Durbin	Knollenberg	Rivers
Roberts	Shuster	Tiahrt
Roemer	Sisisky	Torkildsen
Rogers	Skeen	Traficant
Rohrabacher	Skelton	Upton
Ros-Lehtinen	Smith (MI)	Vento
Rose	Smith (NJ)	Volkmer
Roth	Smith (TX)	Vucanovich
Roukema	Smith (WA)	Waldholtz
Roybal-Allard	Solomon	Walker
Royce	Souder	Wamp
Sabo	Spence	Ward
Salmon	Spratt	Weldon (FL)
Sanford	Stearns	Weldon (PA)
Sawyer	Stockman	Weller
Saxton	Stump	White
Scarborough	Talent	Whitfield
Schaefer	Tanner	Wicker
Schiff	Tate	Wilson
Schumer	Tauzin	Wise
Scott	Taylor (MS)	Wolf
Seastrand	Taylor (NC)	Woolsey
Sensenbrenner	Tejeda	Wynn
Serrano	Thomas	Young (FL)
Shadegg	Thornberry	Zeliff
Shaw	Thornton	Zimmer
Shays	Thurman	

NAYS—68

Abercrombie	Hilliard	Rush
Bonior	Hinchey	Sanders
Borski	Jefferson	Schroeder
Brown (FL)	Kanjorski	Skaggs
Clay	Kennedy (RI)	Slaughter
Clyburn	Kildee	Stark
Coleman	Klink	Stokes
Collins (IL)	LaFalce	Studds
Collins (MI)	Lewis (GA)	Stupak
Conyers	Manton	Thompson
Coyne	Markey	Torres
DeFazio	Martinez	Torricelli
Dingell	McDermott	Towns
Evans	Meek	Tucker
Fattah	Miller (CA)	Velazquez
Fields (LA)	Mink	Visclosky
Filner	Murtha	Waters
Foglietta	Nadler	Watt (NC)
Ford	Olver	Waxman
Frank (MA)	Owens	Williams
Gibbons	Payne (NJ)	Wyden
Gonzalez	Pelosi	Yates
Hastings (FL)	Rangel	

NOT VOTING—16

Boehner	Fields (TX)	Stenholm
Boucher	Gallegly	Walsh
Bryant (TX)	McKinney	Watts (OK)
Clement	Moakley	Young (AK)
Coburn	Norwood	
Dellums	Reynolds	

□ 1303

The Clerk announced the following pair:

On this vote:

Mr. Watts of Oklahoma for, with Mr. Dellums against.

Mr. MARTINEZ changed his vote from ''yea'' to ''nay.''

Mr. KING, Mr. BERMAN, Ms. RIVERS, and Mrs. MALONEY changed their vote from ''nay'' to ''yea.''

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1289

Ms. ESHOO. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1289.

The SPEAKER pro tempore (Mr. EWING). Is there objection to the request of the gentlewoman from California?

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

PROVIDING FOR IMMEDIATE CONSIDERATION OF CONCURRENT RESOLUTION PROVIDING FOR ADJOURNMENT

Mrs. WALDHOLTZ. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 179 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 179

Resolved, That immediately upon the adoption of this resolution it shall be in order, any rule of the House to the contrary notwithstanding, to consider in the House a concurrent resolution providing for adjournment of the House and Senate for the Independence Day district work period.

The SPEAKER pro tempore (Mr. HOBSON). The gentlewoman from Utah [Mrs. WALDHOLTZ] is recognized for 1 hour.

Mrs. WALDHOLTZ. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas [Mr. FROST] pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, while adjournment resolutions are ordinarily privileged, a point of order could be raised against the July 4th district work period resolution on grounds it violates section 309 of the Budget Act that requires that the House can not adjourn for more than 3 days in July if it has not completed action on all appropriations; and on grounds it violates section 310 of the Budget Act that requires the same with respect for completing action on a reconciliation bill if one is required by the budget resolution adopted by the Congress.

Despite these strictures in the rules. Mr. Speaker, we are well on our way toward completing our appropriations work in timely manner. Accordingly, in deference to the people whom we serve here, and to our families, to whom we have made commitments over the next week, I believe it is appropriate for the House to now adjourn for the Independence Day district work period.

The special rule before us will simply allow us to consider the July 4th resolution by waiving points of order against it.

The adjournment resolution itself, Senate Concurrent Resolution 20, passed the Senate last night and is now pending at the Speaker's table. This rule provides for the immediate consideration of the adjournment resolution. Under the precedent, it is not subject to debate and will immediately be voted on. I urge adoption of the rule.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

(Mr. FROST asked and was given permission to revise and extend his remarks.)

Mr. FROST. Mr. Speaker, this resolution is one big the dog-ate-my-homework excuse for not getting much done over the last 6 months.

It doesn't list all the laws and rules Republicans have violated, we would be here all night. Instead it rolls all of the excuses into one sentence that gets House Republicans off the hook in terms of the many and varied promises they have broken this year.

The Congressional Budget Act says the House cannot go on recess for more than 3 days in July until the House has initially considered the appropriations bills. Well, we've only finished 2 out of 13 appropriations bills. Well, we've only finished 2 out of 13 appropriations bills, and those were 2 of the easier ones. The law tells Congress not to take a vacation until its work is done and, with this resolution, Republicans are saying they are above the law.

The reason Congress is not supposed to go on vacation until the appropriations bills have gone through the House is because unless the House is finished by July 4, we will be unable to avoid a continuing resolution on October 1. Because Republicans tied up the House with their contract—cutting taxes for the rich at the expense of school lunches and Medicare, and refusing to attend to the business at hand—the Government may very well shut down at the beginning of the fiscal year.

And that's not all. The Congressional Budget Act also requires Congress to complete action on any necessary reconciliation legislation before going home for the July recess. This year, committees won't report until the end of September.

But not to worry. The Republican majority will just pass this resolution and ignore that law too. I can think of a lot of people who would love to change a law they wanted to break, but for most Americans it doesn't work like that.

And let me remind my colleagues on the other side of the aisle of another rule they are breaking today. I quote:

Whenever the Committee on Rules reports a resolution providing for the consideration of any measure, it shall, to the maximum extent possible, specify the object of any waiver of a point of order against its consideration.

But this resolution doesn't specify the object of any waiver at all. Instead they put in words like ''to the maximum extent possible'' which creates a loophole big enough to drive a truck through.

For all the reform hoopla on opening day—just 6 months ago—Republicans have trampled their own rules time and time again. And today is no different. Every single day of the week that we are in the Committee of the Whole they waive the new requirement that committees will not sit during the 5-minute rule. They've waived that rule more than a flag on a 4th of July parade.

The same Republicans who demanded fairness in committee ratios last Congress are now skewing them so badly that even we look good.

Mr. Speaker, with this resolution, House Republicans are handing themselves a big get-out-of-jail-free card. They are saying ''we didn't do the things we were supposed to do but we want to go on vacation anyway.''

I urge my colleagues to defeat this rule and I reserve the balance of my time.

Mrs. WALDHOLTZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would simply say in response to my colleague from Texas, that while some people may consider it a vacation to go home for 10 days, a number of us consider it a good opportunity to go home and talk to the people whom we are here to serve and many of us have town meetings scheduled.

We have opportunities to go home and talk to the people at home about the work that we are doing here. And much as I consider it a vacation to get out of Washington and return home to Utah, this is not simply for convenience of the Members; it is an opportunity to go home and continue the work that we have to do representing the people of our district.

I will also say, Mr. Speaker, that I think a lot of people recognize at home that having completed a balanced budget resolution for the first time in nearly 30 years is completing a great deal of work. We are well on our way toward accomplishing the work that is required of us in the appropriation process to complete that balanced budget in the time prescribed by law.

Mr. Speaker, we would have had two more bills finished this week, but for some unfortunate decisions by some people to try to slow down the process. Hopefully, we are past that, Mr. Speaker, and that when we come back from work in our districts over the next 10 days, we will have an opportunity to let the process move forward expeditiously as it is intended to.

Mr. Speaker, I reserve the balance of my time.

PARLIAMENTARY INQUIRY

Mr. LAHOOD. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. LAHOOD. Mr. Speaker, is it against the House rules for Members to wear buttons while speaking on the floor?

The SPEAKER pro tempore. Members should not wear badges trying to communicate a message while they are addressing the House.

Mr. LAHOOD. Mr. Chairman, I have a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. LAHOOD. Mr. Speaker, would the Speaker not assume that a member of the Committee on Rules would know the rules of the House when he speaks on the House floor?

The SPEAKER pro tempore. The gentleman is not stating a parliamentary inquiry.

Mr. LAHOOD. Would the Speaker please advise Members that they are not allowed to wear pins or buttons when they are speaking on the House floor.

The SPEAKER pro tempore. The Chair has just so informed the House.

Mr. FROST. Mr. Speaker, I appreciate the information, because I recall my Republican colleagues wearing buttons on the floor of the House day in and day out when they were in the minority.

I gather what was OK when they were in the minority is not OK now that we are in the minority. I appreciate the information and I will be happy to remove my button. I do recall speaker after speaker wearing buttons on the Republican side during the last 2 and 4 years.

Mr. Speaker, I yield 7 minutes to the gentleman from Missouri [Mr. VOLKMER].

(Mr. VOLKMER asked and was given permission to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, Members of the House, here we go again. You know, it has been a very interesting 6 months. And I can still remember the very first day when we sat here adopting changes in the rules of the House.

□ 1315

And we went through each one individually, 20 minutes of debate and then a vote, 20 minutes of debate and a vote, and how we heard from the majority how this House was going to be reformed, how it was going to more adequately represent the people of this great country.

But lo and behold, let us see what has happened since January 4. Let us go through this 6 months and see what has happened.

How about the provision under the rules, the very new rule, that a Member could only serve on four subcommittees? How about that? Well, lo and behold, what do we find out? We have got 30 Members, most of them freshmen, the ones that held the charge for reform on five or six subcommittees. The heck with the rules of the House. I am better than the rules of the House. I do not have to abide by the rules of the House. I am a freshman in the majority. I can serve on five or six and the to heck with rules of the House. That is one of the things that has happened.

What else has happened? Well, what is very interesting to me is this rule we have here today. Not only is it the rules of the House, but the Budget Act, a statutorily enacted law on the books that says that you have to do your appropriation bills and your reconciliation bills before you take over 3 days' recess over the fourth of July. But we are not going to do that. This rule right here before us waives that and other rules so that the majority members, instead of finishing up the appropriation bills as we are supposed to do, and we have only got two done out of here, and I would like to remind that great majority, that outstanding majority, the Gingrich Republicans, and I know I cannot blame the gentlewoman from Utah for not knowing, because she was not here, but last year at this time, before July 4, under the then chairman of the Committee on Appropriations, all 13 appropriation bills were passed by the House, all 13 of them, not 2—13. But not the majority, not the Gingrich majority. They do not have to do it. They can take their good old time.

In fact, I understand it will probably be near the end of July before we get through the last appropriation bill. Now, that does not strike me as getting the job of the Congress done.

The majority has made a great big thing about all of the bills that they passed in the hundred days. Three of them have become law. One of them did not amount to a hill of beans. Two of them amount to a little bit, and that is about all we have done.

Now, they talk about this great big budget that we just passed. Wait a minute folks, read the Budget Act. When are we supposed to have done that budget? Hey, anybody in the majority know when they were supposed to pass the budget? About 2½ months ago. That is all, a little late folks, way late. About time you got things on track. It is about time. I do not think they are ever going to get things on track. I think the train is going to eventually come to a grinding halt here around the 1st of October, and I think that is a deliberate activity of the Republican majority in order to do that.

I am tired of these reformers talking about all of these great rules changes and things they do, when all they end up doing is violating the rules of the House.

I would also like to point out it is going to be interesting to me because I think we ought to have a rollcall vote on this resolution. The reason is because for years from that side, from the more senior Members on that side, anytime you had a waiver of the Budget Act, man, they exploded. They had to vote against it. They talked against it. You could not vote for a rule that waived the Budget Act, could not do it. I am going to be interested to see how many of them vote for the waiver of the Budget Act under this rule.

In closing, I would like to make a quote that I have before me from Will Rogers. He said it way back in 1927. I think it applies probably a little bit to me right now and what I am going to be doing back in my district, since the Republicans are going to vote to send me on a vacation. This is Will Rogers:

> From now on I am going to lay off the Republicans. I have never had anything against them as a race. I realize that out of office, they are just as honest as any other class and they have a place in the community that would have to be taken up by somebody. So I want to apologize for all that I have said about them and henceforth will have only a good word to say of them. Mind you, I am not going to say anything about them for a while, but that is not going to keep me from watching them.

Mrs. WALDHOLTZ. Mr. Speaker, I yield 30 seconds to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, my colleague just said that the budget was late, and we happen to agree with the gentleman that the budget was late. A balanced budget is about 40 years late.

We were here for 93 days and passed the Contract With America, which was the most bipartisan Congress in the history of this body. And they have had 40 years to balance a budget, and they have not done it.

We kept our word. We are here. We are going to balance the budget by 2002, and it will happen.

So we do agree it was late, 40 years late.

Mrs. WALDHOLTZ. Mr. Speaker, I yield myself such time as I may consume, simply to respond to the previous speaker, Mr. Speaker.

There are a couple of points I think need to be clarified. The gentleman noted that he believed that all the appropriations bills had been passed before the July 4 district work period last year. In fact, the D.C. appropriation bill had not been passed. It is a small point, but one I think requires correcting as we are going to talk about appropriations bills on the floor.

Second, Mr. Speaker, I think it is also important to note that that same Congress that was seated last year, in 1993, did not complete their reconciliation bill until October, well past the time it was supposed to be completed by law.

The budget that was passed in those 2 years of the preceding Congress, Mr. Speaker, inflated our deficit to record levels. I think the people of our Nation would rather we take our time and get it right and get it balanced than hurry through and continue a legacy of deficit spending that has continued unabated since 1969.

Finally, Mr. Speaker, I would simply say that the irony of the previous speaker complaining about us not getting our work done will not be lost on those who worked on this floor or people across the country who have observed what has been going on for the past several days as we have wasted precious moments coming in to vote on procedural matters. I would simply point out, while he now complains about us going home so we can talk with the people in our districts over the coming week, the previous speaker voted in favor of a motion to adjourn just earlier this morning.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 7 minutes to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Speaker, I thank the gentleman for yielding me this time.

My distinguished colleague, the gentleman from Missouri [Mr. VOLKMER] ended his presentation with a quotation from the distinguished American, Will Rogers. I want to start mine with another quotation from another distinguished American, Yogi Berra. Yogi Berra said, ''This is deja vu all over again,'' and that is really what I want to talk about, because this is deja vu all over again.

You have not seen me on the floor recently very much. Earlier in this term, during the first 100 days, I rose time after time after time to protest procedural shortcomings that my Republican colleagues had engaged in. They want to take credit for all of this reform, yet they do not want to comply with their own rules that they are taking credit for among the American people.

Let me give you some examples. On the opening day of this Congress, my colleagues passed a new rule which bars proxy voting in committees. They argued that proxy voting makes a mockery of the committee process and concentrates power in committee leaders. Well, I happen to agree with them.

So what do they do on a regular basis in committee? We cannot vote by proxies, but anytime a vote comes out in a way that they do not like, then they simply go back and ask for reconsideration so that when their Members are not there, they always have a fallback position to come back in and get the results that they are looking for anyway.

They talked about the value of proxy voting. Well, I believe in no proxy voting, too. I think it makes for better deliberation to have the Members in the committee doing work. But they also passed a rule on the opening day of this Congress which talked about waiving the 5-minute rule in the House. Well, what is the 5-minute rule in the House? We debate things on the House floor under a 5-minute rule, and they passed a rule which says you cannot have a committee meeting while we are under the 5-minute rule in the House.

Well, just about every day we have been in this session of Congress, my colleagues, after they passed that rule, have come back to this House of Representatives every single day and asked for a waiver of that rule so that committees can continue to meet while we are doing debate, important debate, right here on the floor.

There was a day last week when I had two markups going, one in the Committee on the Judiciary, one in the Committee on Banking and Financial Services, and a bill that I was involved in on the floor right here, and they said, ''Well, you can be in three places at one time because we waived the rule that allowed the committees to meet even though we are doing something that is important to you on the floor of the House of Representatives.''

Well, let us hasten along to talk about why this is deja vu all over again, because my colleagues on the Republican side also on opening day passed this rule, and it says, ''No Member of the House can serve on more than four subcommittees of this House.'' Well, look at the record, if you will. There is not a single Democratic Member of the House of Representatives who serves on more than four subcommittees, because the rule says that.

But look at my friends on the other side of the aisle, 30, 30 Republican Members are violating this House rule. Two-thirds of the Members who violate this rule are the same freshmen Republicans who came into this House saying they support reform and honesty with the people of the American electorate, but they themselves will not abide by their own House rules that they have adopted.

Well, is it deja vu all over again?

Let me make the other points, as I have got only 2 minutes.

They passed a rule on opening day of this House which said that the CONGRESSIONAL RECORD will be a verbatim transcript of what actually happens in the House.

□ 1330

Well, my colleagues have not complied with that rule either. They have come right back and, on numerous occasions, have changed, changed the transcript of what has happened in the House to reflect what they would like to have happened rather than what actually happened.

Well, one final thing. They said on opening day, and they went out into the public and took credit for it as an important issue of reform, that a three-fifths vote, a three-fifths vote is required, to pass any new taxing provision. But on several occasions my colleagues have come into this House and violated their own rules.

So why is this deja vu all over again? Because it is a systematic practice on this side of the aisle to come in and violate the rules of the House and have us try to sanction their own violations.

I say to my colleagues, if you are going to take credit for reform, then at least live up to the standard that you set for yourselves. You ask us to comply with the law. We comply with the law. You asked us to comply with the rules. We complied with the rules. All we are simply asking you to do is to comply with the very same rules that we must comply with that you are telling the American people that you are complying with, and, if you do that, then maybe you can have a better audience in the future.

Mrs. WALDHOLTZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it seems that our previous speaker is complaining about reforms that have resulted in open rules.

Mr. Speaker, there is no question that the previous rule structure, voting by proxy, was more convenient for Members of the House, but it was not good government. When the new majority took over this year, we inherited a bloated committee structure that had so many committees and subcommittees that proxy voting was basically the only way that things could happen around here if the Members did not want to have to move quickly at times. To start on our reforms we cut out 3 whole committees, 25 subcommittees, in an attempt to make it easier for Members to completely fulfill their obligations, which I believe, Mr. Speaker, includes physically going to our committee meetings and voting rather than handing a proxy to someone else who votes on their behalf without them having to consider what is coming before their committee.

We are continuing, Mr. Speaker, to try to work out the problems that had been created. It is true that having people have to actually be in their committees and vote is resulting in us having to hurry at times. It is true that it is less convenient for Members than the old proxy voting was. But I believe, Mr. Speaker, that we have a better Government and a better deliberative process for the difference.

Mr. Speaker, we are going to continue in our working to continue to find better ways to work out the scheduling problems to see if there are other ways to streamline the committee structure, but I believe, Mr. Speaker, that the people at home have every right to expect us to exercise our voting privileges personally and not by proxy.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are being asked to waive all kinds of rules so we can go on our vacation for the Fourth of July.

Mr. Speaker, I just wonder what kind of rules we will be asked to waive in August so that Members can go on book tours.

Mr. Speaker, I yield 6½ minutes to the gentleman from Texas [Mr. DOGGETT].

Mr. WATT of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. DOGGETT. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. Mr. Speaker, I am just wondering what good does it do to do reform of the rules if they then turn around and violate the rules that they have reformed. I do not know what good that does.

Mrs. WALDHOLTZ. Mr. Speaker, will the gentleman yield and allow me to respond?

Mr. WATT of North Carolina. Mr. Speaker, I yield back to the gentleman from Texas.

Mrs. WALDHOLTZ. Is the gentleman not allowing me an opportunity to respond?

Mr. DOGGETT. Mr. Speaker, the gentlewoman will have plenty of time to him, and I have got a few things for her to respond to, too, but let me pose them first.

Mr. Speaker, I think there are many Americans who are out there saying when they watch the proceedings in this House that there ought to be a law against what is happening up there. There ought to be a law against some of the things that are not happening up there.

I say to my colleagues, Well you know what? There is a law. It is called the Congressional Budget Act, and the Congressional Budget Act is what these folks propose in this resolution to just suspend, to say that they, unlike other Americans, don't have to comply with some of the laws in the statute books, that they can kind of pick and choose the laws of this great country that they wish to comply with. You see the Congressional Budget Act says that we are to have a budget resolution passed and approved in this Congress so we have the guidelines for the budget that will govern the American people with trillions of dollars of expenditure, and it sets a date for doing that, and that date is not yesterday. That date is April 15. Can you imagine what would happen if the American citizens didn't pay their taxes on April 15 when they are due? Would someone permit them to say, ''Well, we'll just suspend that this year; it just doesn't feel good to pay taxes on April 15. We'll just suspend that.''

Mr. Speaker, that is what these good folks have done, and then they tell us in this law that applies to every American and to this Congress that it is our obligation to complete something called the Reconciliation Act, which when this Congress was in the hands of Democrats in 1993, they followed that law. It says:

> You complete the Reconciliation Act on the budget, and you do it before you go home on July the Fourth. You cannot recess for more than 3 days during the month of July until you have completed the Reconciliation Act.

Mr. Speaker, where I come from, down in Texas, people understand that. They either do their work or they do not get their break. They either do their work or they do not go on vacation. But apparently our colleagues in the majority, the Republicans, do not understand that because, instead of complying with the law and completing reconciliation, what do they come before this House today to do? They asked us to suspend the law for them. They want to go home instead of doing the work that the law charges them with doing.

I do not declare that, if this Republican majority has to suspend any more of the law on the budget, every one of them ought to have to come out here in suspenders because they have been suspending this and suspending that, and they are not doing the people's work to complete this budget on time.

What difference should all that make other than just this example of flouting one law after another to the American people? Well, as a matter of fact, I think it is going to make a big difference when they pay their taxes, when they reach in their pocketbook, to wonder what has happened on Medicare, when they reach in their pocketbook to wonder what has happened in the way taxes are paid in this country, because, I ask, ''What happens when you delay, and you delay, and you delay, and you got those suspenders on, and you're suspending one law after another instead of complying with it?'' It is that it finally all comes home to roost, and it is all going to come home to roost around here after these big vacations are over with and we are faced with the problems of the fall because, my colleagues, we are only about 3 months from the time that the train wreck is going to occur.

Mr. Speaker, we are going to be down to the end of this fiscal year. We are going to be facing a debt limit, and it is all going to back up, and it is going to pile up, and we will have all these last-minute proposals that say from the Republicans: ''Well, Mr. and Mrs. Senior American, we're going to need a little more help out of you. If you want to see your own doctor next month instead of the one that some organization picks out for you, pull out a twenty out of your pocket because it is going to cost you about $20 more a month to do that.''

They are going to say, ''Well, Mr. and Mrs. Senior American, are the young people that are trying to care for their parents and honor their father and mother,'' they are going to say to them, ''Well, if you want to stay at home with home care instead of going into a nursing home, it is going to cost you more money.''

They are going to say, as one of the Members of the Republican leadership does, ''If you're about to turn 65 and retire, don't look to Medicare to cover you health care because you're going to have to wait until 67. Oh, your employer won't cover it anymore? Well, that's tough. You'll have to come up with thousands of dollars to provide yourself medical insurance if you get it at age 65 or 66.''

And there is one other thing that needs to be said:

As a State judge, I saw one defendant after another who, lacking a meritorious defense, would come forward and would use delay as their shield. It is not surprising when a defendant does that; it is surprising when the judge gets in a partnership with the defendant to use delay as a defense, and on one very critical matter in this House we have heard action would be taken after the Contract. We have heard action would be taken after Memorial Day. We have heard action would be taken at the end of June, before the July Fourth recess, and yesterday a story in the New York Times put a lie to all of that when it reported how little work the Committee on Standards of Official Conduct had done. It is an outrage for this House to adjourn without the Committee on Standards of Official Conduct acting on the complaint against Speaker GINGRICH.

Mrs. WALDHOLTZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first I would like to respond to the question that I was asked but that I was not allowed an opportunity to respond to. The gentleman asked why it is all right to waive our own rules. Well, as the gentleman well knows, in order to expedite the business of this House, to keep it rolling, we have to make some decisions about what is the most important requirement that the people at home expect of us. It is true, Mr. Speaker, that by doing away with proxy voting and expecting people to actually go and vote in the committee that they are assigned to, that we have had to allow those committees to carry out their work while there has also been business moving forward on the floor of the House. Mr. Speaker, we have not waived that most important rule of requiring people to go and exercise their own vote in the committee to which they are assigned. It is critical, Mr. Speaker, that we continue to hold fast to those rules that represent real reform in this body, and we have done so. Rules that are created, however, for the convenience of Members sometimes will have to be suspended in order to allow us to do what needs to be done.

□ 1345

So, Mr. Speaker, I would submit that the people of this country will judge us on whether we are keeping the commitments that we have made to do our work, to vote ourselves rather than allowing someone else to vote for us. And I believe, Mr. Speaker, that the people of this country will support us in continuing to keep the business of this House moving forward at the same time we expect people to do their work themselves instead of handing off their decisionmaking ability to someone else.

Let me also say, Mr. Speaker, that, while people keep talking about us somehow being derelict in our duty by going to our districts this week, I would submit that the decision as to how we are going to spend this Nation's money, which is what the budget process is all about, that decision should not be made solely in Washington, DC. The people at home in our districts have every right to have the opportunity to tell us how they want us to spend their money.

And this district work period, while, yes, I plan to go see my family on the 4th of July, this district work period is an opportunity for us to go home and talk with the people who sent us here, to ask them what it is they want us to

do, how they want us to spend their money, because we can never forget, Mr. Speaker, it is not our money, it is theirs.

It is appropriate for us to go home in the midst of this budget process and ask them what they would like us to do with their money. This is a district work period, Mr. Speaker. It is an opportunity for us to go home and see what it is that people want us to do. I think that there is no better use of our time for a period during this budget process.

Mr. WATT of North Carolina. Mr. Speaker, will the gentlewoman yield?

Mrs. WALDHOLTZ. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. I was just going to inquire what the gentlewoman did during the April recess when we were out for 3 weeks and you all seem to have spent all your time parading around bragging about what you did in the first 100 days; why did you not do it during that period?

Mrs. WALDHOLTZ. Reclaiming my time, Mr. Speaker, I am happy to show the gentleman exactly what I did during the April recess, meeting with my constituents, talking with people at home. There is never enough time, Mr. Speaker, to talk with the people who sent us here. I am perfectly happy to go home and have another opportunity to meet with them even if the gentleman does not think he needs it.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, we urge a ''no'' vote on this.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. WALDHOLTZ. Mr. Speaker, I think we have said all that needs to be said on this matter. I urge my colleagues to support this rule.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

There was no objection.

The SPEAKER pro tempore (Mr. HOBSON). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FROST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 242, nays 157, not voting 35, as follows:

[Roll No. 468]

YEAS—242

Allard	Baker (LA)	Bereuter
Archer	Barr	Bilbray
Armey	Barrett (NE)	Bliley
Bachus	Bartlett	Blute
Baesler	Barton	Boehlert
Baker (CA)	Bass	Boehner
Bonilla	Hancock	Ney
Bono	Hansen	Norwood
Brewster	Hastert	Nussle
Brownback	Hastings (WA)	Oxley
Bryant (TN)	Hayworth	Packard
Bunn	Hefley	Parker
Bunning	Heineman	Paxon
Burr	Herger	Petri
Burton	Hilleary	Pombo
Buyer	Hobson	Porter
Calvert	Hoekstra	Portman
Canady	Hoke	Quinn
Castle	Holden	Radanovich
Chabot	Horn	Ramstad
Chambliss	Hostettler	Regula
Chenoweth	Houghton	Riggs
Christensen	Hunter	Rivers
Chrysler	Hutchinson	Roberts
Clinger	Hyde	Rogers
Coble	Inglis	Rohrabacher
Coburn	Istook	Ros-Lehtinen
Collins (GA)	Jacobs	Roth
Combest	Johnson (CT)	Royce
Cooley	Johnson, Sam	Salmon
Cox	Jones	Sanford
Cramer	Kasich	Saxton
Crane	Kelly	Scarborough
Crapo	Kim	Schaefer
Cremeans	King	Schiff
Cubin	Kingston	Seastrand
Cunningham	Klug	Sensenbrenner
Davis	Knollenberg	Serrano
Deal	Kolbe	Shadegg
DeLay	LaHood	Shaw
Diaz-Balart	Largent	Shays
Dickey	Latham	Shuster
Dixon	LaTourette	Skeen
Doolittle	Laughlin	Skelton
Dornan	Lazio	Smith (MI)
Dreier	Leach	Smith (NJ)
Duncan	Lewis (CA)	Smith (TX)
Dunn	Lewis (KY)	Smith (WA)
Ehlers	Lightfoot	Solomon
Ehrlich	Lincoln	Souder
Emerson	Linder	Spence
Engel	Lipinski	Stearns
English	Livingston	Stockman
Everett	LoBiondo	Stump
Ewing	Longley	Talent
Fawell	Lucas	Tate
Flanagan	Manzullo	Tauzin
Foley	Martini	Taylor (NC)
Forbes	McCollum	Thomas
Fowler	McCrery	Thornberry
Fox	McDade	Thornton
Frank (MA)	McDermott	Tiahrt
Franks (CT)	McHugh	Torkildsen
Franks (NJ)	McInnis	Traficant
Frelinghuysen	McIntosh	Upton
Frisa	McKeon	Vucanovich
Funderburk	Meehan	Waldholtz
Ganske	Metcalf	Walker
Gekas	Meyers	Wamp
Gilchrest	Mica	Weldon (FL)
Gillmor	Miller (FL)	Weldon (PA)
Gilman	Minge	Weller
Goodling	Mink	White
Goss	Molinari	Whitfield
Graham	Moorhead	Wicker
Greenwood	Morella	Wilson
Gunderson	Myers	Wolf
Gutknecht	Myrick	Young (FL)
Hall (OH)	Nadler	Zeliff
Hall (TX)	Nethercutt	Zimmer
Hamilton	Neumann	

NAYS—157

Abercrombie	Coleman	Fazio
Andrews	Collins (IL)	Filner
Baldacci	Condit	Flake
Barcia	Conyers	Foglietta
Barrett (WI)	Costello	Ford
Becerra	Coyne	Frost
Beilenson	Danner	Furse
Bentsen	de la Garza	Gejdenson
Berman	DeFazio	Gephardt
Bevill	DeLauro	Geren
Bishop	Deutsch	Gibbons
Bonior	Dingell	Gonzalez
Borski	Doggett	Gordon
Browder	Dooley	Green
Brown (CA)	Doyle	Gutierrez
Brown (FL)	Durbin	Harman
Brown (OH)	Edwards	Hastings (FL)
Cardin	Ensign	Hilliard
Chapman	Eshoo	Hinchey
Clay	Evans	Hoyer
Clayton	Farr	Jackson-Lee
Clyburn	Fattah	Jefferson
Johnson (SD)	Moran	Slaughter
Johnson, E. B.	Murtha	Spratt
Kanjorski	Neal	Stark
Kaptur	Oberstar	Stokes
Kennedy (MA)	Obey	Studds
Kennedy (RI)	Olver	Stupak
Kennelly	Orton	Tanner
Kildee	Owens	Taylor (MS)
Kleczka	Pallone	Tejeda
Klink	Pastor	Thompson
LaFalce	Payne (NJ)	Thurman
Levin	Payne (VA)	Torres
Lewis (GA)	Pelosi	Torricelli
Lofgren	Peterson (FL)	Towns
Lowey	Peterson (MN)	Tucker
Luther	Pomeroy	Velazquez
Maloney	Poshard	Vento
Manton	Rahall	Visclosky
Markey	Rangel	Volkmer
Martinez	Reed	Ward
Mascara	Richardson	Waters
Matsui	Roemer	Watt (NC)
McCarthy	Rose	Waxman
McHale	Roybal-Allard	Williams
McKinney	Rush	Wise
McNulty	Sabo	Woolsey
Meek	Sanders	Wyden
Menendez	Sawyer	Wynn
Mfume	Schumer	Yates
Mineta	Scott	
Mollohan	Skaggs	

NOT VOTING—35

Ackerman	Fields (LA)	Pickett
Ballenger	Fields (TX)	Pryce
Bateman	Gallegly	Quillen
Bilirakis	Goodlatte	Reynolds
Boucher	Hayes	Roukema
Bryant (TX)	Hefner	Schroeder
Callahan	Johnston	Sisisky
Camp	Lantos	Stenholm
Clement	Miller (CA)	Walsh
Collins (MI)	Moakley	Watts (OK)
Dellums	Montgomery	Young (AK)
Dicks	Ortiz	

☐ 1409

Ms. DANNER and Mrs. KENNELLY changed their vote from ''yea'' to ''nay.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONDITIONAL RECESS OR ADJOURNMENT OF THE SENATE ON THURSDAY, JUNE 29, 1995, OR FRIDAY, JUNE 30, 1995, UNTIL MONDAY, JULY 10, 1995, AND A CONDITIONAL ADJOURNMENT OF THE HOUSE ON THE LEGISLATIVE DAY OF FRIDAY, JUNE 30, 1995, UNTIL MONDAY, JULY 10, 1995

The SPEAKER pro tempore. Pursuant to House Resolution 179, the Chair lays before the House the following concurrent resolution from the Senate:

S. CON. RES. 20

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns at the close of business on Thursday, June 29, 1995, or Friday, June 30, 1995, pursuant to a motion made by the Majority Leader or his designee, in accordance with this resolution, it stand recessed or adjourned until 12:00 noon on Monday, July 10, 1995, or until such time on that day as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until 12:00 noon on the second day after Members are notified to reassemble pursuant to section 2 of this resolution, whichever occurs first; and that when the House of Representatives adjourns on the legislative day of Friday, June 30, 1995, it stand adjourned until 2:00 p.m. on Monday, July 10, 1995, or until 12:00 noon on the second day after Members are notified to reassemble pursuant to section 2 of this resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, acting jointly

after consultation with the Minority Leader of the Senate and Minority Leader of the House, shall notify the Members of the Senate and the House, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

The SPEAKER pro tempore. Without objection, the Senate concurrent resolution is concurred in.

There was no objection.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1883

Mr. WHITE. Mr. Speaker, I ask unanimous consent that my name be withdrawn as a cosponsor to H.R. 1883. It was inadvertently placed on that list.

The SPEAKER pro tempore (Mr. HOBSON). Is there objection to the request of the gentleman from Ohio?

There was no objection.

PERSONAL EXPLANATION

Mr. ENGEL. Mr. Speaker, yesterday I inadvertently missed two rollcalls. On rollcall vote No. 463 I would have voted ''aye,'' and on rollcall vote 464 I would have voted ''no.''

LEGISLATIVE PROGRAM

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEPHARDT. Mr. Speaker, I rise to inquire of the gentleman from Texas [Mr. ARMEY] regarding the schedule for next week, July 10.

Mr. ARMEY. Mr. Chairman, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Speaker, on Monday, July 10, the House will meet at 12:30 p.m. for morning hour and 2 p.m. for legislative business. We plan to take up four bills under suspension of the rules: H.R. 1642, extending most-favored-nation status to Cambodia, H.R. 1643, extending MFN to Bulgaria, H.R. 1141, the Sikes Act Improvement Amendments of 1995, and S. 523, the Colorado Basin salinity control amendments.

Members should be advised that there will be no recorded votes taken before 5 p.m. on Monday, July 10. After any recorded votes on suspensions, we will consider a committee naming resolution before taking up the second rule and continued debate on H.R. 1868, the fiscal year 1996 Foreign Operations appropriations bill.

On Tuesday, Wednesday, and Thursday, the House will meet at 10 a.m. for legislative business. We will continue consideration of fiscal year 1996 appropriations bills, including the Energy and Water, Interior, and Agriculture appropriations bills.

It is our hope to have the Members on their way home to their families and their districts by no later than 6 o'clock on Thursday evening. There will be no recorded votes on Friday of that week.

Mr. GEPHARDT. Mr. Speaker, the majority leader indicated his intent to bring up a committee naming resolution before considering the Foreign Operations appropriations bill on Monday, July 10.

Am I correct, Mr. Speaker, In assuming the gentleman is referring to the majority party's intent to seat the gentleman from Texas [Mr. LAUGHLIN] on the Committee on Ways and Means?

Mr. ARMEY. The gentleman is correct. At this time, that is the only committee designation that would be made. I suppose it is possible something else might pop up in the meantime, but that right now is the only designation that I know of.

Mr. GEPHARDT. Mr. Speaker, as I have said to the gentleman, and all Members should understand, there may be a large number of votes that evening after the starting time, and Members should be advised of that possibility.

Mr. ARMEY. I thank the gentleman. I think it is very helpful to all our Members, in the interests of doing their district work period and then returning, that we are able to assure them there will be no votes until after 5 o'clock, but I think the gentleman is absolutely correct. After 5 o'clock, we can most assuredly expect that there will be some votes, and they will be important votes that they will want to participate in.

□ 1415

Mr. GEPHARDT. I wish the distinguished majority leader and all Members a productive, successful, and restful Fourth of July district work period.

Mr. ARMEY. I thank the gentleman from Missouri. I, too, would like to encourage all our Members to have a good break, get some good work done, rest, relax, and we will all come back happy and congenially ready to go back to work on some of the material we did not finish today.

AUTHORIZING THE SPEAKER AND THE MINORITY LEADER TO ACCEPT RESIGNATIONS AND TO MAKE APPOINTMENTS AUTHORIZED BY LAW OR BY THE HOUSE, NOTWITHSTANDING ADJOURNMENT

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment of the House until Monday, July 10, 1995, the Speaker and the minority leader be authorized to accept resignations and to make appointments authorized by law or by the House.

The SPEAKER pro tempore. (Mr. HOBSON). Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, JULY 12, 1995

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday, July 12, 1995.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE A PRIVILEGED REPORT ON DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS BILL, 1996

Mr. LEWIS of California. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on a bill making appropriations for the Interior and related agencies for the fiscal year ending September 30, 1996, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. All points of order are reserved on the bill.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE A PRIVILEGED REPORT ON AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 1996

Mr. LEWIS of California. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on a bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and related agencies programs for the fiscal year ending September 30, 1996, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. All points of order are reserved on the bill.

SAVING LAW ENFORCEMENT OFFICERS' LIVES ACT OF 1995—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104–90)

The SPEAKER pro tempore laid before the House the following message from the President of the United States, which was read and, together with the accompanying papers, without objection, referred to the Committee on the Judiciary and ordered to be printed.

To the Congress of the United States:

Today I am transmitting for your immediate consideration and passage the ''Saving Law Enforcement Officers' Lives Act of 1995.'' This Act would limit the manufacture, importation, and distribution of handgun ammunition that serves little sporting purpose, but which kills law enforcement officers. The details of this proposal are described in the enclosed section-by-section analysis.

Existing law already provides for limits on ammunition based on the specific materials from which it is made. It does not, however, address the problem of excessively powerful ammunition based on its performance.

Criminals should not have access to handgun ammunition that will pierce the bullet-proof vests worn by law enforcement officers. That is the standard by which so-called ''cop-killer'' bullets are judged. My proposal would limit the availability of this ammunition.

The process of designating such ammunition should be a careful one and should be undertaken in close consultation with all those who are affected, including representatives of law enforcement, sporting groups, the industries that manufacture bullet-proof vests and ammunition, and the academic research community. For that reason, the legislation requires the Secretary of the Treasury to consult with the appropriate groups before regulations are promulgated. The legislation also provides for congressional review of the proposed regulations before they take effect.

This legislation will save the lives of law enforcement officers without affecting the needs of legitimate sporting enthusiasts. I urge its prompt and favorable consideration by the Congress.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 30, 1995.*

REPORT ON PROGRESS CONCERNING EMIGRATION LAWS AND POLICIES OF THE RUSSIAN FEDERATION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104–91)

The SPEAKER pro tempore laid before the House the following message from the President of the United States, which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means and ordered to be printed.

To the Congress of the United States:

On September 21, 1994, I determined and reported to the Congress that the Russian Federation is in full compliance with the freedom of emigration criteria of sections 402 and 409 of the Trade Act of 1974. This action allowed for the continuation of most-favored-nation (MFN) status for Russia and certain other activities without the requirement of a waiver.

As required by law, I am submitting an updated Report to Congress concerning the emigration laws and policies of the Russian Federation. You will find that the report indicates continued Russian compliance with U.S. and international standards in the area of emigration.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 30, 1995.*

DESIGNATION OF MEMBER AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH MONDAY, JULY 10, 1995

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC, *June 30, 1995.*

I hereby designate the Honorable FRANK WOLF to act as Speaker pro tempore to sign enrolled bills and joint resolutions through July 10, 1995.

NEWT GINGRICH,
Speaker of the House of Representatives.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon [Mr. DEFAZIO] is recognized for 5 minutes.

[Mr. DEFAZIO addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. RIGGS] is recognized for 5 minutes.

[Mr. RIGGS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from American Samoa [Mr. FALEOMAVAEGA] is recognized for 5 minutes.

[Mr. FALEOMAVAEGA addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. KINGSTON] is recognized for 5 minutes.

[Mr. KINGSTON addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

A FAIR DAY'S PAY FOR A FAIR DAY'S WORK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. FILNER] is recognized for 5 minutes.

Mr. FILNER. Mr. Speaker, I rise today in strong support of H.R. 363, a bill that would increase the Federal minimum wage from $4.25 to $5.50 an hour, and equally important, automatically adjust the wage up or down annually as indexed for inflation.

Historically, our Nation's lowest wage earning positions were reserved for new immigrants and the young. Both of these groups, especially with increased education, could expect to advance in our society. But as Bob Dylan used to sing, ''the times, they are a changin.'' Indeed, the times are changing. No longer are the lowest paying jobs occupied solely by the young and uneducated; they are held by parents, seniors, students supporting themselves, and millions of other Americans.

The minimum wage labor force has drastically changed over the past decade. What was once a mere passageway to the ''American Dream,'' minimum wage jobs have become a permanent way of life for an increasing number of citizens. Today, nearly 50 percent of working Americans earn the minimum wage. Not only do many of these working people have college diplomas and master's degrees—but most have to support families on their minimum wage.

Now, more than ever, we need to pass legislation that will allow working Americans to earn a real and meaningful income. We have all heard the arguments that unemployment and inflation will increase with a higher minimum wage. These arguments are completely unfounded, as shown by study after study done in a wide variety of areas that have increased their minimum wage. A higher minimum wage stimulates our economy because it allows more consumer needs to be met.

Each day that the minimum wage remains at its current low level, the real buying power of that wage decreases. In order for workers to remain above the poverty level, they would have to be earning over $6 an hour. Do we want to condemn so many working people to poverty?

Mr. Speaker, hard working Americans deserve the security and stability that come with being able to provide for oneself and one's family. Let's raise the minimum wage, let's index it automatically for inflation, and let's give every working American the promise for a better tomorrow.

The SPEAKER pro tempore (Mrs. MORELLA). Under a previous order of the House, the gentleman from Georgia [Mr. CHAMBLISS] is recognized for 5 minutes.

[Mr. CHAMBLISS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

WHY CORRIDOR H IS A NATIONAL HIGHWAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia [Mr. WISE] is recognized for 5 minutes.

Mr. WISE. Madam Speaker, as the Congress adjourns and shortly Sandy and I will get in the car with our two children and begin heading home to the western side of West Virginia, about a 7-hour drive away, we are going to ask ourselves once again: Why is it that we have to drive north to drive so far south? Or why is it that we can take the alternate route and drive so far south and then west and then we get to go north again? Why is there not a direct route, a direct route called Corridor H, a route that has been torn by controversy for many, many years but a highway that should be built.

This is going to begin a series of statements on why Corridor H should be built. Today I am going to entitle this, ''Why Corridor H is a National Highway.''

It is not, as some say, a narrow West Virginia road or a State interest. It is not just of local concern, nor is it a pork-barrel project. Corridor H is a vital project that has been on the books for 25 years.

Let's take a look at the map, Madam Speaker. Here we are roughly in Washington, DC. I–66 goes out toward the Virginia line and intersects with Interstate 81. The logical thing, if you were going to continue going to the west, would be to go straight, would it not? That is what Corridor H does. But instead our traffic, economic, and tourist and all other traffic, is required to go to the north to 68 or down to the south to 64 and keep going down.

Were Corridor H to be completed, and indeed 40 miles of Corridor H, 4-lane Corridor H is already completed from I–79, 40 miles to Weston, to Buckhannon, to Elkins, West Virginia. But were Corridor H, the 100 and some miles left, to be completed, what you would have is an extension of Interstate 66, a major east-west corridor that goes to I–79 and then permits you to continue going to the west, either down Interstate 79 or up and over on Route 50, another 4-lane road.

What you would have is a straight east-west corridor running all the way from the Washington metropolitan area to Ohio, Kentucky and points west.

This is truly a national highway. Indeed, it would also connect, Madam Speaker, with the inland port at Front Royal, an increasingly commercial development that is showing more success in getting goods to the port at Norfolk. But the problem is that if you are trying to bring anything from the west to the east, you are confronted by extremely mountainous and difficult terrain. Corridor H would end that. It is a major economic development corridor as well as a national highway, a highway truly of national significance.

I think it should also be pointed out that some argue that it is too expensive or environmentally damaging. What they fail to acknowledge is that the four routes that were considered, two running to the south, one running to the north and now the route that has been adopted this way, that those routes were considered and rejected. Indeed, the least expensive route and the one that causes the least environmental disruption is the one that has been adopted.

The two southern routes threaten great environmental problems and were the most expensive to construct. So out of consideration and to meet the concerns of many who raised these objections, the fourth route, the one that is presently proposed, is the one that was adopted.

Madam Speaker, I would urge this Congress to get on about the business of constructing Corridor H and to look at I–66 as it ends at Interstate 81 and to recognize the important national significance of this road. It does not get any cheaper to build a road. The least expensive route has been selected and indeed to provide a major east-west corridor, Corridor H is the answer.

Yes, Sandy and I are going to spend 6 to 7 hours driving and we could spend far less were Corridor H constructed. It should not be constructed for our driving ease. What it ought to be constructed for is the economic growth of this entire region, not only West Virginia but parts of Virginia, Ohio, and Kentucky as well.

Madam Speaker, I will be revisiting the issue of Corridor H a good deal more in the future.

MORE FREEDOM, INDEPENDENCE, AND BANG FOR THE BUCK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota [Mr. GUTKNECHT] is recognized for 5 minutes.

Mr. GUTKNECHT. Madam Speaker, I probably will not take the full 5 minutes. As we adjourn today and Members begin to return to their districts to celebrate the Fourth of July, I think we should remember what we are really celebrating is Independence Day.

There were two events, two news items this week coming out of Washington that I think deserve some attention and may seem in some respects disparate but I think they are related. Like the fireworks displays that we are going to see in communities all across America next Tuesday, we should be talking about independence, we should be talking about freedom, but more importantly I think as it relates to government programs, we ought to be looking for ways that we can get the most bang for our buck.

□ 1430

And so I would like to talk about a couple of news items. First of all, we have an expression back in the Midwest, ''When pigs fly,'' which is another way of saying that that is never going to happen. And I think if you would have asked people several years ago, Do you think the Congress will really get serious about balancing the budget? I think a lot of people would have said, ''When pigs fly.''

This week the House and Senate conferees came together and we now have a budget blueprint which will, in fact, balance the Federal budget.

Second, I want to talk about something and congratulate Marion Barry, who many times we found reasons to disagree with, and the DC school superintendent, Franklin Smith. There is an article in today's Wall Street Journal where they have agreed to support a local voucher plan for the local schools and privatize up to 11 of the most troubled schools.

I think that is terrific news. I think that is terrific news for the students in Washington, DC. I think it is about independence, I think it is about freedom, and I think it is about getting more bang for the buck.

And so when we talk about the budget, some people are saying we should take 10 years instead of 7 years to balance the budget. When I talk to my constituents, they think we ought to balance it in 3 or 4 years, rather than 7 years. There is criticism no matter what you do.

Frankly, as it relates to the Washington, DC, public schools, I would like to see them open the system up even more so that parents could choose from private, religiously affiliated schools as well, but they are taking the most important first steps, as we are with the budget.

And so, Madam Speaker, when we see pigs beginning to fly, I do not think we should criticize them for not staying up too long or taking too long to get the job done. These are important news items. It is all about more freedom, more independence, and getting more bang for our buck.

The SPEAKER pro tempore (Mrs. MORELLA). Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

[Ms. KAPTUR addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

AMERICANS WANT FASTER FDA DRUG APPROVALS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. FOX] is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Madam Speaker, life-saving new drugs do take too long to reach the people who need them. From my district in Montgomery County, PA, I have heard many a compelling story from constituents with cancer, A.L.S., Lou Gehrig's disease, epilepsy, or AIDS, who speak of the difficulties in obtaining these life-saving, life-extending drugs. They need them because the approval process in our country is so prolonged and, in effect, they have to turn to other countries where the products are available.

Is it not ironic that most of the life-saving drugs that are produced in the

world are produced here in the United Stats, but our patients and our constituents are the last to receive them because of over-regulation and delays in the system which can be cleared up.

Do not get me wrong. The Food and Drug Administration serves a valuable purpose in maintaining high safety and efficacy standards. However, it is important to note that the FDA's actions directly affect the lives of patients and the ability of physicians to provide state-of-the-art care for their patients. What we need to have is a speeded up process to approve or disapprove drugs so that the investments made by biotech and pharmaceutical companies can result in having saved lives and the quality of those lives extended for many years to come.

In addition, the FDA regulates businesses that produce 25 percent of America's gross national product, so the agency's actions also impact on our country's economic well-being. The United States is far and away the world leader in pharmaceutical and biotech discovery, but many firms are moving clinical trials overseas because of needless trends that do not bode well for the economic future of the United States.

This can all be changed by legislation; by making sure that we speed up the process of FDA approval so that our constituents will have the benefit of these life-extending and live-saving drugs.

In my 13th Congressional District of Pennsylvania alone, we have 10 facilities of 4 major pharmaceutical companies that employ 11,000 people. Here they are at work very hard every day to make sure that we save lives and improve those lives. I would not want to see any of those companies or constituents lost their jobs because FDA regulation is so overburdened and so over-regulated that we delay, in fact, the service and the medical care for our constituents.

Americans want safe medicines. They want a strong FDA that will keep unsafe products off the market. But they also want to see more emphasis on quicker access to medicines, faster clinical trials, and the delivery of those services and devices to them. That is why I am introducing, working with colleagues on both sides of the aisle, to have the Life Extending and Life Saving Drug Act passed here in this 104th Congress. We need to take the action as soon as possible for the great benefit of our Nation's patients and our constituents. I look forward to working with my colleagues and the chairmen of the important committees, like Commerce's THOMAS BLILEY, to make sure we act critically, quickly, and in an efficient manner so that our constituents will be served and, in fact, an industry that is so vital to the country moves forward with economic stability.

WAKE UP, CONGRESS; WAKE UP, AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. FOLEY] is recognized for 5 minutes.

Mr. FOLEY. Madam Speaker, first I would like to thank the employees of this House of Representatives who endured hours and hours of debate while this House went into 24-hour session the other evening: The cloakroom staff, the individual staff of the Members of Congress, the Clerk's office, the stenographers that had to take down every word, the pages that have come from around our Nation that have helped the Members, the whip teams and everyone else.

It was quite a spectacle. It was sad for me as a freshman Member of Congress to watch the delay after delay, the motions to rise, the various tactics in order to stall the progress of this House.

I came here to make a difference, to make change. And I know at times there are disagreements and I am certain at times the Republicans did it last time to a Democratic-controlled Congress, but I urge my colleagues on both sides of the aisle to stop this nonsense.

The American public is watching and they are sick and tired of watching Congress go into the night, go into the early morning hours, go 24 hours a day, spending taxpayers' dollars while these fine employees of the House of Representatives have to be away from their homes, while the young pages 16 and 17 years old are up all night long. That is wrong.

So the Democrats and Republicans have to become more responsible in this process and they have got to stop the nonsense and start doing the people's business. Start working on legislation that will change America's problems. I mean we must have had seven motions to rise the other day, which takes over 17 minutes per vote to do that work.

So we spent hours of wasted time coming back and forth to the Chamber. People think it is funny in the Chamber. They laugh. How long can this go on? Let us take to the mattresses. The American public who are watching on C–SPAN or reading in the newspapers of Congress' action are embarrassed. I am embarrassed as a Member of Congress for the actions we took the other day.

Let me talk about another problem that is confronting America and we have got to deal with it, and that is child abuse. The other day we may have read in the national newspapers about a young child named Wolfie whose parents abandoned him at a mall. A husband and wife abandoned their 3-year-old child and left him wandering in a mall thousands of miles away from their home.

In South Carolina a woman allows two young children to be driven into a lake and drowned. In Florida two parents killed their 7-year-old daughter and left her in a closet for 4 days.

To those out there that have that type of mental illness, put your child up for adoption. Do not take that child's life. You know, children are being taken advantage of. Sexual abuse of our children, this has got to stop.

Members of Congress cannot legislate the protection of children, but neighbors have to be careful and watch out for those around them, the vulnerable children of our society that are falling prey to the sick individuals that would take their lives.

Reading the story of young Wolfie, I can only imagine the terror in his mind when his parents leave him in a mall and drive off in a car and they are found in a park in Maryland 3,000 miles away. Left in California, a 3-year-old child in a mall.

Many of you may have remembered the story of Adam Walsh, who was kidnaped from a mall in Florida, who was beheaded. They still do not have the killer. I understand they are pursuing somebody who may have been involved.

I think it is important that America wake up. The children are our future. When we talk about balanced budgets, we keep talking about children, saving the children's future, taking away the debt that is being piled on our children's future.

Madam Speaker and Members of this Congress, it is time to stop talking about the children in abstract and start talking about protecting their very precious lives, start talking about protecting children from the sick individuals that would destroy their futures and destroy their opportunities.

I ask God to bless the parents of children and, again I say to them, if you are not happy with your child, if you are not happy being parents, put your child up for adoption and let somebody love your child the way that they need to be loved to become responsible citizens.

Again, my hats are off to the dedicated employees of the House of Representatives who have endured many, many hours of debate and their willingness to put in that time to make America the great and strong Nation that it is.

WHY AMERICANS ARE ANGRY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Vermont [Mr. SANDERS] is recognized for 5 minutes.

Mr. SANDERS. Madam Speaker, I want to just briefly this afternoon touch on two issues: One, maybe offer some explanation as to why the American people are so angry. We keep reading in the media about the angry white male, but I think it is not only the angry white male. A whole lot of people of all colors and ages are angry, and also on the floor of this House we hear a lot about class struggle. Class struggle. Let me say a word about that also if I might.

Madam Speaker, I think that the average American is in fact angry, and I believe that that average American has every reason in the world to be angry. What concerns me is very often our anger is taken out against the wrong opponent. But let us focus on why we should be angry.

Madam Speaker, in 1973, the United States reached a high point of its economic life with regard to the wages and benefits that middle-income and working people reached. Since that time, approximately 80 pecent of the American working people have seen either a decline in their standard of living or economic stagnation. That means after 20 years of hard work, those people have gone nowhere economically.

Furthermore, what we are seeing is that the American worker, in order to compensate for the decline in his or her standard of living, is working longer hours. We are making lower wages. We are working longer hours. When you want to know why Americans are stressed out, why they are angry, why they are furious, we should understand that the average American today is working an extra 160 hours a year more in order to compensate for our falling standard of living.

Now, if middle-income people and middle-aged people should be worried, they are working longer hours, they are making less money, what about the younger people? And that is where the economy in the United States today looks extremely frightening.

The real wages of high school dropouts, that means people who did not graduate high school, plummeted 22 percent between 1973 and 1993.

For high school graduates who are entering into the job market, there has also been a precipitous decline in those wages. So what is going on is that as the standard of living of American workers declined in general, for the young workers it is becoming even worse.

But, Madam Speaker, we talk about increase in poverty in America, decline of the standard of living of American workers, the shrinking of the middle-class, the fact that 80 percent of our people are going nowhere economically except perhaps down. Is the economic crisis impacting all people? And the answer of course is no, it is not.

One of the very scary and unfair and unjust aspects of the American economy right now is that in many ways we are becoming two nations. The New York Times a few months ago reported that the wealthiest 1 percent of our population now owns 40 percent of the wealth of America. The richest 1 percent owns more wealth than the bottom 90 percent.

The gap between the rich and the poor is growing wider, and in fact it is today wider and we have a more unfair distribution of wealth than any other industrialized nation on Earth. For the richest people, these times are great times and we can understand why the columnists, who themselves make millions of dollars, or the owners of the TV stations are talking about a booming economy.

□ 1445

It is booming, if you are making a whole lot of money. It is not booming if you are a middle-income or working-class person.

What I am also concerned about is that the nature of the new jobs that are being created are not only low-wage jobs, they are often part-time jobs. What we are seeing now is a proliferation of part-time jobs because companies would rather pay two workers at 20 hours a week without benefits than one worker 40 hours a week with benefits.

I wonder how many Americans know who the largest private employer is right now. People say, ''Well, maybe it is General Electric, maybe it is General Motors, IBM.'' Wrong. The largest private employer today is Manpower, Incorporated, which is a temporary agency.

Very briefly, let me make some recommendations as to what we might want to do to address this very serious economic problem. No. 1, we have got to raise the minimum wage. Workers in America cannot continue to work for $4.25 an hour. That is why so many of our working people are living in poverty.

No. 2, we need, in fact, a massive jobs training, jobs program, to rebuild this country. In my State of Vermont, all over America, there is an enormous amount of work to be done. Let us put people back to work at decent wages and rebuild this country.

A POSITIVE VIEW OF ROMANIA AND THE ROMANIANS

The SPEAKER pro tempore (Mrs. MORELLA). Under a previous order of the House, the gentleman from North Carolina [Mr. FUNDERBURK] is recognized for 5 minutes.

Mr. FUNDERBURK. Madam Speaker, while the Romanian Government has sometimes gotten bad press in the United States for its slow transition to democratic government and privatization, and its part-free elections and media—the Romanian people deserve recognition for their long suffering struggles and their contributions. This afternoon I want to give a tribute to the Romanian people.

There are over one million people from Romania living abroad in Western Europe, North and South America, and Australia/New Zealand. They have made a name for themselves in all fields with some winning Nobel prizes. One of my colleagues in this House, Congressman MARTIN HOKE, has a Romanian mother. Nearly half a million people originally from Romania settled in America, living in every State. One Romanian—Dr. Nicholas Dima—assisted me in preparing this historical sketch.[1] There are Romanian settlements in North Carolina and Romanian professionals living in Durham, Buies Creek, Roanoke Rapids and other towns in the 2d district. Duke University has a Duke in Romania program, and professors and students from Romania can be found at many of our universities. Many Tar Heels have happily adopted lovely Romanian babies.

All of us in the Western World owe a debt of gratitude to the people of Romania because they provided a buffer zone which helped protect civilized Europe from the barbarians. When marauding hordes from the east threatened Europe, it was Romanians who almost alone in southeast Europe defended the west during the Middle Ages. They thus helped insulate western European civilization from destruction.

There are some 25 million Romanians living mainly in present-day Romanian and in the neighboring Republic of Moldova, formerly Bessarabia. Descending from the Dacians, one of the most ancient peoples in Europe, the Romanians have their linguistic roots in Rome (hence the name Romania), have deep cultural affinities with the west, and an unshakable admiration for America.

The country fell under the influence of the Romans almost 2,000 years ago, and the Romans gave the local population a new language, culture, and identity. When Roman soldiers withdrew from Dacia in the 3d century, the inhabitants of the country remained and survived as farmers and shepherds especially in and around the Carpathian mountain arch.

While the culture and language tied the Romanians to the west, the location of their land and the adoption of the eastern orthodox church connected them to the east.

The results of Romania's unique location and history are rich traditions and a beautiful culture. The Romanians developed an exquisite folk art, a fascinating folk music, and became one of the friendliest and most hospitable peoples in Europe. Unfortunately, the geo-political location of Romania has caused a lot of suffering for the people.

The Hungarians came to central Europe during the ninth century. They settled in current-day Hungary and began to move eastward into Transylvania, considered the cradle of the Romanian nation, between the 11th and 13th centuries.

While most Transylvanian Romanians stayed in their ancestral land, others crossed the Carpathian mountains where they met their brethren and founded Wallachia to the south around the beginning of the 14th century, and Moldova to the east in the mid-14th century. During the middle ages, these two principalities became the most important Romanian cultural and political centers. And while Moldova fortified the Dniester River to defend the country against the Tartars, Wallachia fought many wars to defend itself against the Ottoman Turks. In the end, however, both principalities had to sign special treaties with the Turks and to pay them tribute to keep their integrity.

During the late 18th and 19th centuries Tsarist Russia began to expand toward the Balkans. Claiming to liberate the christians from the Turks, the Tsars were in fact aiming at Constantinople and the Mediterranean sea. After a war against Turkey, in 1812 Russia annexed the eastern half of Moldova, which later changed hands several times between Romania and Russia.

In 1859, Wallachia and Moldova united under the name of Romania, and the country

[1] One Romanian hero, Father Calcin, who spent 16 years in Communist prisons for his religious faith is here today.

became the magnet for all Romanians. During World War I, Romania sided with her traditional friends, and fought against the central powers. In 1918, Transylvania, which at the time was annexed by Hungary, North Moldova (Bukovina) which was under Austria, and eastern Moldova (Bessarabia) which under Russia, joined with Romania. At long last, Romania became a modern nation ready to claim its place in the new Europe.

During the interwar years, Romania tried to build democracy and to modernize its economy. Nevertheless, the ascent of communism and fascism put an end to stability and hopes for a better future all over Eastern Europe. In 1940, following the Nazi-Soviet Pact, the U.S.S.R. invaded Romania and annexed again Bessarabia and for the first time northern Bukovina. One year later, Romania joined Germany and attacked Russia to reclaim its land.

At the end of the war, Romania was occupied by the Soviet Union which brought about the darkest era in the entire history of the nation. Romania with fewer native Communists than other countries suffered more than almost any other country under the Communist yoke. The full story of the misery, gulags, death and damage done by communism has not yet been reported and exposed. And most of those responsible have not yet been held accountable. Mercifully, the worst of the Communist era ended in December 1989. Many changes have followed, some of them positive and hopeful. Nevertheless, the economic, moral and spiritual damage caused by communism was staggering and will probably haunt Romanians for generations. [Now that Ceausescu's communism is gone from Romania, the only Romance-language speaking Latin country in the world remaining with a Communist dictatorship is Cuba under Castro].

Things have not been very good in Romania since the 1989 demise of the evil Ceausescu regime. The old Communists are still in power under a different name, but the country has made efforts to befriend the United States and to rejoin the West.

As one who spent 6 years of his life in Romania, as a student, research professor, USIA guide and United States Ambassador, I am a friend of the freedom-loving people who is concerned about their fate and their country's relationship with the United States. It is time to support the people of Romania. We should assist the true democrats in their efforts to democratize and privatize the country and bring the country closer to the United States and West. Democracy, stability, and prosperity in Romania would also be in America's best interests. I wish the Romanian people well and thank them for their contributions to America. May God bless the Romanian people and may God bless America, as we enter Independence Day week.

HANOI VISIT CANCELED

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes as the designee of the majority leader.

Mr. DORNAN. Madam Speaker, I come to the floor today under unprecedented circumstances. I had signed up for this special order earlier in the week, had moved to cancel it this morning, because at this moment I was supposed to be taking off from Andrews Air Force Base on a congressional delegation to Hanoi. It was a delegation led by minority Members in the other body, the U.S. Senate.

Any minute, a page, Madam Speaker, is going to bring out my passport stamped this morning with a visa by the Vietnamese section, we do not have diplomatic relations with Vietnam, with a visa to go to Hanoi on this trip. Across my visa, I have just been informed by one of my staffers who speaks Vietnamese is the word ''canceled'' and my visa was canceled by a telephone contact of a U.S. Senator, a minority Senator, who was elected to this House in 1974.

Now, I have the press waiting for me out on the grassy triangle following the press conference by the gentleman from New Jersey [Mr. SMITH] on abuses in Communist China. I hope it goes long enough that I can finish this special order and there will still be some press waiting.

Within a few feet of where the press conference will take place is my automobile with all of my bags in it. I packed five suits and enough clothing for 5 or 6 days in Vietnam, Hanoi. I had packed only one piece of reading, McNamara's disgraceful, evil book on Vietnam and how he knew before he even sent the first Marines in there that he had no plan or strategy for victory and would be squandering lives for whatever length of time it took, and it took 5 years under him and another 5 years before we had decided we were going to desert the democracy in South Vietnam.

Here is the press release which I will read, Madam Speaker, and that I am giving to the press in a few moments out in front: ''For immediate release, June 30, 1995,'' precisely 20 years and 2 months since the Communist forces out of Hanoi conquered South Vietnam. We were unable to do for South Vietnam what we did for South Korea or France twice.

''Dornan denied visa for Vietnam. Washington, D.C. U.S. Rep. Robert K. Dornan, Republican, California, was denied a visa today by the Vietnamese Government after Senator,'' I am going to leave his name out at this moment, ''instructed the Vietnamese to deny Dornan's visa, according to Vietnamese officials at the Vietnamese interest section in Washington, D.C.''

I have just spoken to three eyewitnesses. One of them is an Air Force sergeant, an E–6, who was at the Embassy 9 o'clock this morning until 11:30, when the Senator's call intervened, a minority Senator, and this majority chairman of the Subcommittee on Military Personnel had my visa canceled. ''Dornan, chairman of the Committee on National Security Subcommittee on Military Personnel, conducted oversight hearings last Wednesday,'' 11 hours and 35 minutes of hearings, about a 30-year record, I understand, four different panels, brilliant testimony, ''on the conditions that the Clinton Administration had set for normalizing political relations based upon resolving the remaining 2,202 cases of Americans still missing in Southeast Asia. Dornan had requested to participate in the minority Senator's led delegation, traveling to Vietnam over the July 4 recess, in order to gauge the level of Vietnamese cooperation and efforts to resolve the MIA issue, to investigate human rights abuses and the severe crackdowns on the advocates of democracy in now combined North and South Vietnam,'' all of it under communism, ''and the crackdowns on religious leaders. During his Wednesday hearings, Congressman Dornan received testimony from U.S. Government officials, missing-in-action family members, former government investigators,'' and here is the passport, Madam Speaker. Thank you, Nathan, ''and a former prisoner of war which cast doubts over administrative claims, Clinton administrative claims, of superb Vietnamese communist cooperation or unprecedented Vietnamese cooperation. U.S. Government officials from the Defense Department, from the U.S. State Department admitted to Congressman Dornan's committee that the Vietnamese were continuing to hold back key documents, key records and the remains of prisoners who are known to have died in captivity. The Senator who is leading a congressional delegation to Vietnam during the July 4, recess,'' now I am quoting from the Senator's own press release carried on the Associated Press wires at this moment, ''to celebrate the 25th anniversary of this then-Hill staffer's efforts to expose the so-called tiger cages where Vietnam War,'' an old French prison out on an island in the mouth of the Saigon River, used extensively after Saigon fell, for the torture, death and abuse of people whom we had befriended and who had worked for us and trusted the world's leading democratic superpower that they would never be deserted.

They were put in these very small tiger cages years later. They are called tiger cages because they are below the ground, similar to French prisons all over their now-disappeared French colonial empire.

But, ''On Friday, Vietnamese officials in Washington informed Dornan's office that the Senator,'' the minority Senator, ''leading a single-party delegation now, because two staffers were also canceled off this trip.'' A senior staffer of the gentleman from New York [Mr. GILMAN] was denied his visa. Again, Vietnamese were forthcoming at the interference of the Senator's office, and a senior staffer of Colonel ROHRABACHER, a Marine major in the Reserve, who had been just recently put on Chairman GILMAN's staff, full chairman of International Relations, he was denied a visa. They had been going for a week. They are here on the Hill with their bags also.

I go to the back of the visa, I mean my passport, my official passport. Here is the visa, today's date, and stamped across it in three black blocks, the Vietnamese words for ''canceled,'' Da Hue, ''canceled,'' thanks to the U.S. Senator. That is what is unprecedented. Their cooperation is not unprecedented. This is an unprecedented act of treachery on this Hill. I have never heard of such a thing.

I would never deny the most liberal Member in this Chamber, even if I knew something about his personal conduct, I would not deny him coming on a balanced codel anywhere in the world at taxpayer expense.

Having given up my Fourth of July with my nine grandchildren, a tenth on the way, everybody that follows politics knows that I am running for the Presidency back in the pack.

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This was my first real trip to New Hampshire, and when relatives of POW's and missing in action begged me to go on this trip to Hanoi to give it balance, I talked to my wife, and she said, ''Your job, my husband, is to be in Hanoi, to try and seek some honorable resolution to this, the most hurtful scandal in this Nation since the abuse of Union prisoners at Andersonville in the Civil War.''

''This is an outrage,'' said DORNAN. Yes, it is an outrage all right. Who had been asked by veterans organizations, including the executive director of the American Legion telling me to go, Carol Hrdlicka, who I have known for 30 years. Her husband was my best friend in the Air Force. I checked him out in the F–100 Super Sabre. He was the first F–105 pilot shot down in Southeast Asia in Laos. He was only TDY from McConnell Air Force Base, KS. He was shot down on May 18, 30 years ago, last month. Carol begged me to go on this trip.

Victor Pockus' sister, Delores, begged me to go in testimony in front of my committee. ''Why can't you, as a chairman, go on this Senate CODEL, Congressional delegation, to Hanoi? Please go.'' She stayed after the hearings imploring me to go.

I was rushing through visa status this morning, a visa for Garnett, William Bell, a retired full career airborne ranger, fluent in Vietnamese, that Lao language, the Thai language, who had been assigned to greet our POW's from captivity on the ramp at the airport in Hanoi when they were released. Every one of the four flights of—freedom-flights we call them—came home. Bill Bell was there in February and in March 1973.

Then years later, because of his intelligence knowledge and his language skills, he was the first chief of office in Hanoi throughout almost all of 1991, from its establishment date, through all of 1992, the missing in action and POW office in Hanoi, and the best, the most knowledgeable, chief that office has ever had.

He testified before. I asked him, ''Please call your wife who happens to be Vietnamese down in Arkansas.'' This is a loyal son of Arkansas who wore his Nation's uniform as an expert for over 20 years.

He said, ''My wife will understand. I'll have my baggage flown up here,'' and his visa was denied at the Vietnamese communist section in northwest Washington at the intervention of this same Senator's office.

I finish my press release saying:

I was asked by MIA families, Vietnamese-American constituents. I represent as many Vietnamese as anyone in this country. I used to represent more than anybody else, but, after the census I split them with the gentleman from California, DANA ROHRABACHER, who holds the seat to the west of mine. It was one of DANA ROHRABACHER's senior staffers, I repeat, a reserve marine major that was also denied a visa this morning, a few hours ago.

At this critical time, before this Congress, where we are debating normalizing relations, for this Senator to deny the chairman of the subcommittee of National Security and the chairman of an Intelligence subcommittee—I am one of only two double chairmen in the whole House, either party of course, and when I am responsible for the well-being of our service people, to deny me to opportunity to investigate the level of Vietnamese cooperation is certainly a slap in the face of all of the families of our missing in action.

DORNAN announced today that he is going to try to lead a delegation to Vietnam. Now he is going to put later in the week. It seems to be impossible. It is always up to the Vietnamese to do what they want with or without diplomatic recognition, so I will try and put something together in the August recess.

Now I want to tell my colleagues a story so that I can strictly follow House rules and not upset our three parliamentarians, honorable men, all of them; one of them an Air Force Academy graduate. I will refrain again from using the name of the said Senator, but here is the article from ''Life'' magazine where he violated House rules and used Government film, and I checked it again with an honorable Member, the minority, who is a two-star general in the reserve and who repeated his words to me of 20 years ago.

Should I have gotten in a fist fight with this hill staffer who was elected to Congress 2 years later to take back the Government film that he had shot with a Government camera and that he sold to ''Life'' magazine for about $25,000, funding his victorious Watergate baby face in 1974?

Here is the ''Life'' article, July 17, 1970. How they unearth the tiger cages. There is his rather handsome face, a ex-naval officer and, like me, a fighter pilot who straddled a J–57 Pratt-Whitney engine. Like me, because we are the exact same age, peacetime pilots. Eisenhower was our commander in chief when this Senator and I were on active duty, so we never were in combat, although I flew 14 missions as a journalist. He never flew one. But he told tall stories to Dave Broder. It is in Dave Broder's book that he flew combat patrols in Vietnam, and, when nailed for lying during his Presidential race at one point in history, he said all fighter pilots exaggerate and lie.

No, we do not.

So, here are the pictures, the infamous tiger cages in 1970. Looks like military barracks to me. All right; there is one of the below-ground prisons. You know what we held in there? Terrorists who had tried to kill the Secretary of State of the United States who had blown up a restaurant. Remember that cover of ''Life'' magazine? Everybody coming across the little gangway bridge to the Saigon River restaurant, blood dripping off them, looking for all the world like Oklahoma City. That was a bomb attempt to kill the Secretary of Defense of the United States. They caught the man who set that bomb. They executed him. Compatriots went to prison, and Jane Fonda named her son after the captured assassin who was executed, Troy, T-r-o-i. That is Jane Fonda's oldest son.

U.S. adviser, you have no right to interfere.

This was a big congressional delegation. Some of the Members whose predecessors were on this trip told me about them. Never a word by this member about the killing fields in Cambodia, 2 million people killed. Never a word about the 68,000 people who were executed by death lists. He probably does not believe it. Never a word about——

He is in the air right now, climbing out over Virginia, heading for Hickam Air Force Base, HI, and then Guam, and then into Hanoi, a total one-sided delegation with two key House staffers stripped of their visas and a chairman of a military personnel subcommittee. Unbelievable.

I will not put this in the RECORD because it may give the House a problem, but I sure want people to go to their local libraries and read this article of July 17, 1970.

Now, Madam Speaker and our excellent parliamentarians, let me use a Jonathan Swiftian style here. The canon of St. Patrick's Cathedral in Dublin, Ireland under an oppressive British Government, Protestant Irishman who wrote ''Gulliver's Travels'' and always used metaphors in a stylized way of getting his political points across, one of the modern fathers of political satire, and a Swiftian style that was used very well by CYNTHIA MCKINNEY of Georgia, one of our more eloquent lady Members, or Members of either gender, she quoted ''Animal Farm'' once to get at our Speaker's lucrative prior book contract before he very honorably, because he is an honorable man, canceled it all for a dollar.

But I told CYNTHIA, ''Very clever to use 'Animal Farm' to describe this place so the parliamentarians couldn't gavel her down as Mrs. MEEK'S, CARRIE MEEK'S, had been gaveled down a few days before.''

So in the style of Jonathan Swift of the 1700's and in the style of Mrs. MCKINNEY of Georgia, let me use a series of supposes:

Suppose you had a House Member who came using money from ''Life'' magazine to this Chamber by selling Government-owned film because a senior Member and a hero of the crusade in Europe under General Eisenhower was not willing to get in a fist fight with him to get the film back; suppose that Member came here and was a key man to cut off not only military aid to the struggling—flawed, yes, but not as flawed as the Communist government. When I left Saigon in August 1972, there were 44 newspapers. To this day there is only one Communist paper. That is what happens when Communists win.

Oh, to be sure, there was corruption, as we have had corruption in our Government here from the Teapot Dome scandal, to Watergate, to Whitewater. We have had scandals in our governments here in this country. It is hard for us to point fingers at emerging democracies given our background of slavery.

So, this new Member—suppose a new Member came here and worked to cut off the economic aid with a Senator from California who is long gone, who left in a cloud of controversy and scandal, corrupting money and politics. Suppose this Member cut off all aid and cheered when, quote, Saigon fell, unquote.

Suppose when I got here 2 years later I came to this very lectern and talked about an honorable retired Marine who worked for the CIA who was caught in Saigon April 30, 1975, was taken to the Saigon jail and tortured for a year.

I went to his funeral in Arlington when his remains were returned. His name was Tucker Gugerman.

Suppose I came to this well, did a tribute to Tucker Gugerman and talked about how there was a live American in Saigon prison when they were—when they were shutting down—when they were shutting down the POW–MIA committee with a half a million dollar budget—shut down in December 1976. This man was being tortured to death, his screams could be heard all throughout Saigon jail, and I told his story here.

I went to Hawaii in middle 1977, my freshman year, with Congressman ''SONNY'' MONTGOMERY. We picked up the first small boxes of our heroes' remains, watched these boxes opened up at the central investigative laboratory on the western edge of Hickam Air Force Base. I watched Tucker Gugerman's box opened up, CIA, ex-U.S. Marine. It has not been touched. He had not even unpacked. Yes, he went back to get his fiancee out. He was already home free in Bangkok, and here was $265 and some change. I remember that figure. Here was his trench coat fresh from the cleaners, all of his civilian clothes all pressed neatly, all kept in a box with his bones. When his bones were analyzed, the signs of torture were so bad that some of the bones were damaged. It is hard to tell when the flesh has been tortured and you have been tortured to death if the bones are not broken.

And I came to the well and told that story, and suppose a U.S. Congressman who had been a naval officer rushed to that lectern and said in so many words he got what he deserved because he went back chasing a girlfriend. That is why he went back into Saigon after the Communists take over.

And suppose I had a confrontation at that desk right there and said, ''Your naval officers' white uniform is covered with the blood of these MIA's.''

Suppose that man had been on that 10-member select committee that turned back over $200,000 and shut down in December 1976, 3 weeks before I raised my hand at that desk and took the oath of office planning on doing something to the best of my ability to find out why we left live Americans behind in Laos?

Suppose during the Sandinista debate the Communist Sandinistas, who were running 16 concentration camps—suppose a Member came to that lectern and said the Communist Sandinistas—he would not have called them Communists—were the moral equivalent of the Boy Scouts of America and then would begin to rattle off the Boy Scout attributes: kind, obedient, gentle, trustworthy, and then his memory broke down and he could not remember the other attributes of a Boy Scout.

Suppose I, together with DAN BURTON, caught a Congressman down in Nicaragua who had an Air Force airplane at your tax expense, all by himself with an Air Force crew of three, a C–121 Learjet, all by himself, and was going in to meet with the Ortega brothers, and suppose I were to tell you that DAN BURTON of Indiana said, taking the Lord's name in vain understandably, you are not going into that blankeddy-blank place without Congressman DORNAN and Me, or I am going back to the States, and having a press conference, telling the world that you are licking the boots of these communist killers down here.

And suppose this congressman said, ''All right,'' by then a Senator—''all right, you can come with us.'' and then told the Vietnamese—excuse me, Freudian, told the Nicaraguan Communists, ''Don't let Congressman DORNAN and Congressman BURTON come into our briefing. You deny them, and I will pretend I want them in.''

And then suppose I told you that a Communist official with no accent, bilingual, raised in San Francisco, named Robert Vargas, came out and told me, ''We wanted you to come in. It was the Senator who didn't want to you guys in there. We don't care if you come in. It's always your Members who come in and tell us to block the State Department people.''

And suppose I told you that our intelligence people were able to listen to conversations inside the Communist headquarters in Nicaragua, and suppose I were to tell you, Madam Speaker and Mr. Parliamentarians, that I have read the transcripts of what some sitting Members here and this former Member now—supposedly a Senator talked over with Daniel Ortega and Humberto Ortega, who were running 16 reeducation camps, euphemism for concentration camps.

☐ 1515

Suppose I told you I read those transcripts and suppose I told you that if we had had a declared war in Central America, which we did not, which we did not in Korea and did not in Vietnam, that it would have constituted high treason.

Suppose I told you that a former Member on this side who became a Secretary of Defense and a former Member on this side who is now chairman of one of our most important, key committees here filed charges to investigate violation of security oaths by some of the highest ranking people in this place down to some other people who had been here and were serving in other bodies.

Suppose I told you there has been a pattern of such treachery by some Members here that three Members of the minority party this morning in this aisle, in those seats on this side of this aisle told me that this Member was flat out a pro-Communist Marxist and the best thing that ever happened to this Chamber was that he is gone from here.

Suppose I told you that that was the truth and I was willing to polygraph on it.

Suppose I told you that you taxpayers and you, too, Madam Speaker and the parliamentarians who all pay taxes, suppose I told you that on the Fourth of July that I was willing to give up there is going to be drinking and embracing and celebrating of the Communist victory over poor pathetic South Vietnam, 68,000 people executed, some of them for only typing on American GSA-supplied typewriters and believing in us.

Suppose I told you that there is going to be a celebration in Saigon, and it will be Saigon some day again, just like Leningrad is St. Petersburg and Stalingrad is Volgagrad, some day it will be Saigon again, it will not be Ho Chi Minh City forever, as soon as the bamboo wall falls like the Berlin wall in North Korea, the palm-covered prison of Cuba goes free, some day China will go free, thanks to the efforts of people here like NANCY PELOSI, we will see these remaining four Communist countries in our lifetime, shortly now, within 10 or 15 years, they will all be free. You cannot stop democracy now and liberty, it is on the rise.

Suppose I told you everything that I have just said is true and that there is such a Member, that his own colleagues call him Marxist. And suppose I told you at taxpayers' expense, with honorable Air Force officers and enlisted men carrying luggage, is going to celebrate meeting with General Giap and with the so-called liberated prisoners from the tiger cages with much drinking and celebrating and hugging. That is like Tom Hayden and Jane Fonda arriving at the airport during the war. Again, if there was a declaration of war, do you think she would not have been tried for treason? What does constitute aid to the enemy? Comfort to the enemy? What is an enemy without a declared war? What is aid and comfort to the enemy? Is it leading a demonstration in a foreign country? Is it traveling to a so-called peace banquet in Moscow at the height of the war during one of the bloodiest periods of the war? Is it what McNamara did, resigning on leap year day, February 29, 1968, the single bloodiest month of the entire conflict? Does that constitute treason to say you are killing thousands of Americans and it just was not worth it and then to have other people say they were vindicated by this poisonous book that has ripped open the hearts and the memories of mothers and fathers now in their 70's and 80's and widows who have never remarried and children who are now in their 30's that were little 8-year-old children when the war ended, like Colleen Shine who testified so heartbreakingly in front of my committee on Wednesday?

My colleagues, obviously everything I am telling you is not McKinneyish; it is not Jonathan Swiftian. It is fact. I feel like Mount Saint Helens on May 17, 1980, the day before the big explosion.

I am going to get justice here. I am going to get justice for all the Vietnamese who were tortured to death in those so-called reeducation concentration camps. I am not going to forget our noble cause, as Ronald Reagan called it, to keep South Vietnam as free as South Korea, flawed but much better than a Communist tyranny.

I got an urgent release that the press conference has started without me out on the grassy triangle. I want to close by thanking the staff again. I have done this as much as anybody I guess, but you folks are the greatest to stay all night and take us through 38 votes in 3 days, amazing. It will be back to this well. I am going to seek justice.

I will tell you this: This ex-member here, now a Senator, is from a Bible Belt State. The first State through a caucus probably that will probably pick the next President of the United States. I am back in the pack. I know who will win in Iowa on Lincoln's birthday in 1996, this coming February.

I will tell you, if you are from Iowa, you know most of this material. I cannot believe what you have sent to represent your country. I hope you enjoy your Fourth of July in Iowa and New Hampshire, because you are going to have U.S. Senators and, God forbid, the three House Members from the minority, one of them a distinguished Army captain from the D-Day period. I hope they are not toasting the terrorists and the Communist victors who brought such human rights abuse and grief to all of Southeast Asia, including Cambodia and Laos. Including Laos, where I swear to you on my honor we left live Americans behind. Three by name: Gene DeBruin, CIA; my best friend, David Hrdlicka, U.S. Air Force; Charlie Shelton, shot down on his 33d birthday, April 29, 1965, a prisoner of war, so declared until a few months ago, last prisoner of war, prisoner of war moved to presumptive finding of death without a shred of evidence. I guess I go to my grave and, if I live as long as my father at 84, that is going to be 22 more years of trying to find justice for what we tried to do in Vietnam.

I tell you now that Adm. Tom Moore is correct when he called Robert Strange McNamara a war criminal. I do not have to treat him with kid gloves, because he has never been elected to anything in his life and is not a member of this or the other body or ever has been.

I tell you that the greatest military writer extant today, Col. Harry Summers is correct when he called Robert Strange McNamara ''raw evil.'' The only person, with all the mistakes, he even criticized the great West Pointer General Westmoreland, but he said they all made mistakes of judgment. He said McNamara was raw evil.

When a commander in chief, who avoided the draft three times, I am not using the word ''dodged'' although that is in my heart, who avoided the draft three times and had his draft induction day, July 28, 1969, politically suppressed, when a person like that who loses 19 rangers in Somalia without their gunships or one lousy tank, when he had four tanks at Waco, two Abrams, two Bradleys, when a person like that says he is vindicated by a war criminal, what does that make that person?

I am going to go over with the parliamentarians how I can recoup my honor from January 25 of this year, when I used the expression ''aid and comfort to the enemy.'' I know it is in the Constitution. I know there is a technicality when war is not declared. But I am going to discuss every dictionary definition, British and American, of aid, of comfort and of what constitutes an enemy.

I will be back to relive that moment. And if the parliamentarians, who we were nice enough to hold over from the Democratic 40 years, rule against me, I will appeal the ruling of the Chair. And if I do not win a vote from my side of the Chamber, the majority, as a double chairman, I will resign from this Congress on the spot, if I do not win a vote from my own colleagues on appealing the ruling of the Chair.

When I tell you that Clinton gave aid and comfort to the enemy in Hanoi by his Moscow trip and his demonstrations in London, where they were called the fall offensive, so named by the same Communists in Hanoi that will be toasting Americans today——

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. MORELLA). The Chair would caution the Member to be very cautious of any statements about the President of the United States.

Mr. DORNAN. Thank you, Madam Speaker. I know I am pushing the envelope, but then I used to fly supersonically. I will revisit this floor.

The SPEAKER pro tempore. The Chair would like to also point out for the RECORD something that the Representative does know, just to remind him, that personal references to Members of the other body, even though not mentioned by name, when it is very clear to whom the references are made, should be avoided, and this is something that had been mentioned on February 23, 1994, by the Chair.

ASSAULT ON THE VOTING RIGHTS ACT

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes as the designee of the minority leader.

Mr. OWENS. Madam Speaker, yesterday the Supreme Court began the process of dismantling the Voting Rights Act. I think it is very important to note, however, that in that process it was a 5-to-4 decision. All hope is not lost. Since it was a 5-to-4 decision, I urge all Americans to take a close look at the issue from the point of view of Justice Ruth Bader Ginsburg, who offered a brilliant dissent from the majority opinion.

It is very important that we understand what Ginsburg is saying. The hope for the future lies in the following of the line of reasoning laid down by Justice Ginsburg. This decision will not stand like many other misguided Supreme Court decisions. One day we expect it to be overturned. But it is here now. It is most unfortunate. It is a very serious matter at this point.

Even with the decision of yesterday still alone, it would be a serious matter because, after all, it goes to the heart of the civil rights progress over the last 20 years. It deals with voting. It deals with representation. The Voting Rights Act has been a huge success. The Voting Rights Act by any measure has been a huge success all over the Nation at every level, whether you are talking about municipal offices or State offices, school boards, certainly at the level of Congress, representation under the Voting Rights Act has greatly increased for people of African descent, for people of Latino descent and for some other minorities also.

It has been a great success in the Congress. We now have 40 persons of African descent. If we had a numerical formula of the 435 people in Congress, if you had a numerical formula that every group should be represented in proportion to its size in the population, and we do not have such a formula, I am not asking for such a formula, but if you had such a formula, the African American population is approximately 13 percent of the 260 million Americans; 33 million people. So the 13 percent would not be, if you had 13 percent, you would have a little more than 40. Ten percent would give you 43, of course; maybe 44, but 40 is pretty close. The act has accomplished its purpose. It goes a long way in the direction of accomplishing its purpose toward giving representation which reflects the population.

So it is a serious matter to begin to roll this act backwards. Yesterday, of course, it should be remembered, the Supreme Court did not throw out the Voting Rights Act. The Voting Rights Act is not nullified. The Voting Rights Act has not been declared unconstitutional. The Voting Rights Act has been merely handicapped, strangled a little bit; the process of strangling has begun. But it is not dead. It is not destroyed.

I will talk more about that in a few minutes. If the decision with respect to the Voting Rights Act had come along, it would be serious enough, but the Supreme Court also moved on matters related to race and civil rights in this particular session to strike down the setaside contracts that the Federal Government has sponsored in the Adarand decision. The Supreme Court also backed away from school integration in a case that was also passed on.

□ 1530

The direction is to declare that the 14th amendment, the 14th amendment is for the purpose of establishing a color blind society. The 14th amendment may have that as one of its purposes, but the 14th amendment first of all, most important of all, is an amendment which was designed to bring the newly freed slaves into the mainstream of American society legally.

The 14th amendment was developed at the end of the Civil War, after the Emancipation Proclamation. There is no question, it is very crystal clear what the first intent of the 14th amendment was. The first and the most important intent of the 14th amendment was to deal with the fact that legal status as citizens must be assigned and given to the newly freed slaves. That was the one clear intent from the very beginning.

If we expand that to cover other minorities, if we expand that to cover other groups that are discriminated against, there is nothing wrong with that, of course. Interpretation can be so much broader. However, the first and most important purpose of the 14th amendment was to make it clear once and for all, in the Constitution of America, that all of the ex-slaves were to be considered as full citizens of the United States of America.

What was the history of the Constitution before the 14th amendment? Before the 14th amendment, the Constitution was not silent on slavery. The Constitution was not silent on slavery. Unfortunately, the Constitution stated earlier that in counting for representation in the House of Representatives, slaves in the States would be considered three-fifths of a man, male slaves, of course, would be considered three-fifths of a man. After all, women did not have the right to vote, whether they were free or slave. Each male slave would be considered three-fifths of a man. That is in the Constitution.

The Constitution spoke again in the 14th amendment and made it clear that nobody should be considered anything other than a full-fledged citizen. It was done by the same people who had fought slavery. The spirit of the abolitionist was on the floor of the House of Representatives, so it is crystal clear what the first and most important intent of the 14th amendment was. The misinterpretation of the 14th amendment is at the heart of what went wrong with the Supreme Court. Justice Ginsberg clearly understands that. The other Justices choose not to understand it.

Mr. Speaker, I have been on the floor before and I have talked about the need for a truth commission. The whole dark period of slavery in the history of America has been pretty much ignored. In the textbooks, nobody wants to talk about such unpleasant things. However, slavery existed in the United States of America for 232 years. People chose to call slavery the peculiar institution. It was not an institution. Slavery was a criminal industry. Slavery was a criminal industry. Slavery was designed to exact as much labor from human beings as possible.

Some people have compared 232 years of slavery with the holocaust perpetrated by Hitler. I do not think that is an appropriate comparison. We do not need to borrow words like that. We are to give a clear designation to what happened in slavery. Slavery was an attempt to obliterate, obliterate the soul and the humanity of the African-Americans who were transported here against their will. They wanted to obliterate their souls, they wanted to obliterate their humanity, in order to make them more efficient beasts of burden, in order to make them work better, harder, and derive more profits from their work. That is what slavery was all about.

I think we need a truth commission to make the story of slavery known to all Americans. We have glossed over it. We cannot have a Nation exist in a healthy state that chooses to ignore a segment of its history that went on for 232 years. Unless we come to grips with recognizing what slavery was all about, we are always going to be making the kinds of mistakes that the Supreme Court makes in its interpretation of the 14th amendment. We need a truth commission. South Africa has a truth commission that is set up. In Haiti they are talking about setting up a truth commission.

Horrible things happened in South Africa. South Africa was a situation where the minority population, minority white population, almost enslaved but later on forced into second class citizenship the majority black population, so South Africa, in order to move ahead, in order to progress, refused to try to punish the people who were responsible for the crimes during the era of apartheid. Instead of trying to punish them, they are trying to seek reconciliation. The process of reconciliation is being driven by a truth commission.

They said, ''We cannot punish everybody. If we tried to punish everybody, we would probably end up devoting resources that would be badly needed to build the country.'' If we tried to punish everybody, we would probably inflame situations among groups and individuals which would only lead to more violence. It would only make it more difficult for the country to come together, so we do not want to try to punish. We do not want justice. We cannot afford justice.

What the South Africans have said is that reconciliation is more important than justice. They have gone forward. However, they said we do want the truth known. We are not going to go forward as a nation unless we have a commission that goes back and examines the crimes that were committed, and tells the story. They will name names, but nobody named, nobody found in the telling of the story to be guilty of a crime, will be punished, no matter how heinous the crime is. If it took place during the period before the new constitution came into effect, they will not punish anybody. They have decided that vengeance belongs to God. Probably only God is powerful enough to really take vengeance. It would destroy their nation if they sought justice. Reconciliation becomes more important than justice in South Africa.

The same pattern has been reproduced in Haiti. The Haitians have decided they do not have enough jails, they do not have enough courts. They cannot pursue the people responsible for 5,000 murders over the last 3 years. They cannot pursue, except to a limited extent, the people who perpetrated the crimes that were so heinous during the period of time that Jean-Bertrand Aristide was kicked out of Haiti and had to remain in exile here in the United States. They do not want to destroy their nation by using their resources to seek justice. They do not have the capacity to seek justice. They chose reconciliation, instead, because it is the only positive way to go.

However, they wanted a truth commission. They want the story told.

They want it known who did these terrible deeds, who was responsible for those awful murders and mutilations. They want this truth to be known. They will not punish anybody, but they want the truth to be known.

The United States of America needs a truth commission about slavery, about slavery and the implications of slavery for the African-American population of this Nation. The truth should be told; a full commission to look at the whole 232 years, and also to examine the 100 years after the 232 years, where slavery was followed by an oppressive effort to keep the descendants of the slaves from enjoying full citizenship; the lynchings, the murders, the systematic denial of due process.

There were laws on the books which denied the right to vote. There were laws on the books which made it clear that they did not want African-Americans to have the right to have a trade, to be able to earn a living as a carpenter, as a contractor, as a person who had a trade that they could use. They could not get licenses. They had to work for somebody else. On and on it goes. It all needs to be examined. When we are talking about affirmative action and voting rights and the necessity for special situations, we need to know the background. We need a truth commission that establishes that.

The consequences of the Supreme Court's misguided decision are great, as I said before. The Supreme Court, on the surface it sounds like common sense, of course, would dictate that, of course, America is a color blind society, and the 14th amendment for equal protection would tell you that nobody, nobody should be given any special consideration.

Common sense dictated the Dred Scott decision, the Dred Scott decision. Common sense dictated the Plessy versus Ferguson decision, which said separate but equal schools is all you need to guarantee that there is equal protection. The Plessy versus Ferguson decision endured for many years before common sense was subordinated to an interpretation of the law which clearly established the fact that you cannot have separate but equal. The very fact that they are separate means one of the two parties will not be equal. Therefore, the common sense that appears to be so obvious to certain commentators on the radio, on television, it is obvious that they could reach no other conclusion. Common sense.

Read Justice Ginsburg's decision and learn about common sense as interpreted by another scholar, by another person who is on the Supreme Court. You will find common sense is not so obvious. There are consequences that are immediate for the African-American community. The consequences are great, indeed.

The consequences of this decision by the Supreme Court mean there will be litigation. Already a district has been challenged in New York State, in New York City. The gentlewoman from New York City, New York, NYDIA VELÁZQUEZ, her district is being challenged, and of course there will be litigation connected with that.

If any district in any part of the country is ordered to redraw its lines, of course it affects all the other districts that are nearby, so in Georgia, you will have all the districts in Georgia affected by the decision yesterday with respect to the 11th Congressional District in Georgia. In New York, if any one of the districts in downstate New York are affected, all of the districts will be impacted. They have to be redrawn.

The consequences will be great. The consequences will be great in terms of political terms, partisan political terms, because it allows a situation for a great deal of mischief. The Supreme Court has said that politics is war without blood. If politics is war without blood, then no general will pass up an opportunity to take advantage of whatever situation opens up, so the generals in the Republican Party will take advantage.

All kinds of things are about to happen in the African-American community. We have always enjoyed certain kinds of privileges in terms of certain groups have never been very popular. The public has never supported certain parties. Therefore, you can expect that people who think one way will not declare themselves to belong to a certain party, or they will not declare themselves to be conservative or to be in favor of certain kinds of policies which are detrimental to the masses of people that they represent in a given congressional district.

We can expect more subterfuge. We can expect Edridge Ames types in the political arena, pretending that they are in favor of certain kinds of policies, but using the unsettled situation to take advantage of it, and running candidates in the primary as well as in the general election; all kinds of scenarios will be unleashed as a result of this tampering with the Voting Rights Act.

There is a great challenge to the black leadership that is being set forth here. The Voting Rights Act brings it home, makes it crystal clear, that there is a state of emergency in the black community. In the African-American community there is a state of emergency. I have said this several times before on the floor of this House. The state of emergency now should be clear to everybody everywhere in the African-American community.

The state of emergency relates to the attack on affirmative action, the attack on the Voting Rights Act, the attack on school integration. Those are minor compared to the attack on the poor population of the African-American communities. African-Americans still are predominantly poor. Sixty percent of African-Americans in the United States of America could be classified as poor.

There is another marginal group that if they miss one paycheck at their job, they will fall into the poverty category, also, so poverty and the consequences of poverty are experienced regularly by an African-American community that came out of slavery after 232 years of slavery, and found no help, no Marshall Plan. The Freedmen's Bureau that was set up was a tiny little operation for a few years, but no effort was made to help millions of people in a transition from slavery to full citizenship, so the consequences of that have come down from one generation to another. It is not surprising that they are poor.

The economic consequences have generated other problems. When people have decent incomes, they can take care of most of their own problems. When people have decent incomes they do not need welfare, public housing. When people have decent incomes, they can take care of their family problems to a greater degree.

Every family has problems: middle class, the rich, working class, poor. Everybody has problems. However, what gives the middle class and the rich great advantages is they have money that can help to deal with their problems, and they do not have to have their problems become public, a public consideration.

The black community does not have that. Large amounts, the great, predominant percentage of the African-American community are poor. There is a book that was written in the 1930's called Black Bourgeoisie, by E. Franklin Frazer. For many years this was a textbook for black college students and black leaders. Everybody had to read it, the Black Bourgeoisie. It was a scathing criticism of the mores and values of the emerging black middle class. It talked about how they were preoccupied totally with themselves, preoccupied totally with their own concerns, and they engaged in activities which were unproductive. They spent large amounts of money on consumer products in an attempt to demonstrate that they were affluent.

A number of criticisms were made, and sometimes, perhaps, maybe they were too harsh. The black bourgeoisie emerging out of the 1930's needs to be congratulated. Things were so difficult, there were so many obstacles and so many rules. You could not become, as I said before, an electrician, a plasterer. You could not be a contractor. Those people who were able to make some headway against all the oppression and all the roadblocks, they deserve credit for being able to economically improve themselves, no matter what problems they had.

□ 1545

If they were not generous and they were not magnanimous in reaching out to their communities and providing leadership, then they can be forgiven to some degree.

There was a new effort that started with Martin Luther King, however. In the 1960's, the middle class provided

the leadership which reached out to the masses of African-Americans and said, ''We are all in this boat together, we all have these problems, and we are going to join to wage an assault to obtain our civil rights.''

The spirit of the 1960's and the spirit of Martin Luther King that went forward was a spirit that was cradled, nurtured by the black middle class, the African-American middle class, the so-called black bourgeoisie, you might say, if you want to stay with the terminology of E. Franklin Frazier. That black bourgeoisie provided magnanimous, generous, courageous leadership in the fight to get the Voting Rights Act, to get the school integration, to end employment discrimination, to get affirmative action. They are to be applauded.

They came in large numbers to the Congress. It was clear that the congresspeople who came here and were parts of the Black Caucus were graduates from a movement that cared about the majority of African-Americans.

The danger with this present situation, one of the dangers that we will have to deal with is the fact that there will be Benedict Armolds in great numbers. There will be large numbers of people who will masquerade as being concerned about the masses, but they will take advantage of the situation.

We may have an elected black bourgeoisie that cares only about itself, only about the deals that they can make, only about their own status, and deceives the great masses. We have a possibility of large numbers of Judas men and Judas women, betraying, deceiving. That is one of the consequences of the process that has been set in motion, the domino, rolling, in respect to the Voting Rights Act, an unsettling number of situations, making it possible for opportunists to come in.

Let me go back to the very beginning, the Supreme Court decision that set in motion all of this. I said the Supreme Court decision began the process of dismantling the Voting Rights Act. It was a continuum of an assault on civil rights legislation, civil rights laws. By itself it is dangerous enough, but in that context it is even more dangerous.

We should think very seriously about what is taking place. I think God must spend many days weeping when He observes the United States of America. God must spend many days weeping when He observes that He has given so much to this land of plenty, beautiful and spacious skies, law and order for long periods of time, no great war to devastate our cities and destroy our countryside, prosperty.

We are the richest Nation that ever existed on the face of the Earth, and the riches have not ceased. Profits are being made on Wall Street, profits are being made by corporations at a greater rate than ever before. People with jobs and wage earners are not benefiting from that. There is no correlation anymore, no association between the profits made by corporations and the welfare benefits received by the working people of America.

They are downsizing and taking away jobs at the same time they are making big profits. Automation, computerization, a number of things allow them to make big profits, increase their investments, increase their activities, produce more products, while at the same time they reduce the number of jobs.

There is a problem there, but in general this is still the richest Nation in the history of the world. The Fortune 500 corporations, most of them have budgets greater than most of the nations of the world. Unparalleled wealth. Never before did such wealth exist.

God must spend a lot of time weeping when He looks at all of this that He has bestowed on the United States Of America and then look at the pettiness that is driving many of our political activities, the pettiness which makes affirmative action a critical problem. Affirmative action is not a critical problem.

Affirmative actions has not resulted in any great movement of African-Americans anywhere. They are not in large numbers in the boardrooms of corporations. They are not in large numbers, I assure you, in the top executive suites. They are not in large numbers, or any credible number, in the management structures after all these years of affirmative action, less than 30 years of affirmative action.

When you look at the statistics, it is appalling how little has been accomplished for the people who were supposed to be the first beneficiaries. Going back again to the first intent of the 14th amendment, the first affirmative action programs were designed and fashioned to deal with the descendants of slaves, to deal with the situation of righting past wrongs. But what has been accomplished? There has been no great move forward.

Consider the shoeshine boys when you go through the airports and places where people are prosperous and they pay a lot for a shoeshine. There was a time when a shoeshine boy was a stereotype and people though most of the shoeshine boys in the country were black, black men, black boys. The shoeshine boy was a subject of humor or subject of ridicule.

But when you travel from now on, look at the shoeshine attendants in the airports. When you go to a fancy club where they are paying $3 for a regular shine and $5 for an executive shine, which means if you can do 4 shines per hour, for $3 a shine, you can make $12 an hour; for $5 a shine, you can make $20 an hour. That is not a bad pay.

When it was 35 cents per shine and 5 cents per shine and even $1 a shine, most of the shine boys and the shine men were African-American, people of African descent. But if you look now, do your own survey and you will see that not only have we not made it to the boardrooms of corporations, not only have African-Americans not made it to the executive suites, not only have African-Americans not made it to middle management, but they are declining even in the area of the shoeshine industry, because as the benefits of the industry go up, the wages go up, other people have displaced the African-Americans.

Take a look for yourself and you will see a most interesting phenomenon. If you look at waiters in hotels, it used to be predominantly expected, especially in the South, the waiters were predominantly African-American waiters, but as the standard of living has risen and the wages of the waiters have risen, you find fewer and fewer African-American waiters in the hotels.

Not only are we not in the boardrooms and the executive suites, we have not held on to the waiting jobs, waiting tables in hotels and restaurants. Take a look for yourself. Do your own survey.

Unfortunately, ladies and gentlemen, even in the professions where the black middle class has striven so consciously to try to move, there was a time when 5 percent of the teachers in America were black, were African-Americans. The percentage of teachers who are African-American has gone down. The percentage of law enforcement personnel, policemen, who are African-American has gone down. The percentage of doctors who are African-American has gone down in the last 20 years.

Not only is affirmative action not succeeding in the industrial sector, in the corporate sector, in the areas that were targeted, overall black employment, blacks climbing up the ladder in terms of wealth, in terms of responsibility in industry or in academia, it has decreased and declined.

God must be very upset and spend a lot of days weeping when He looks at so little having been done for those who need help most, and sees the outrage, and the amount of energy and effort being poured into criticism of affirmative action and criticism of those tiny, very tiny gains that have been made. As I said before, many of the gains have turned into losses.

God must spend a lot of days weeping when He sees that so much has been given to the United States of America and they behave in such petty ways. We have a history of being a country that I am sure God must appreciate a great deal and the world must appreciate a great deal.

We have been celebrating 50 years after World War II. As I watch the documentaries and get educated in greater detail than ever before about what went on in World War II, I am sure the whole world applauds the courage and the generosity, the lack of selfishness of Americans the men who died in Normandy on D-Day or the men who stormed Iwo Jima; Okinawa. All of that kind of courage and that kind of

going forward to save the world from totalitarianism and Naziism and tyranny, I am sure God must applaud a great deal.

But here we are at a point where peace reigns basically, and instead of moving on to build a new society, a society where the wealth of this great Nation can be shared, where the wealth can be used to take care of the needs of everybody, instead of moving in that direction, we have chosen to move in the opposite direction and to hunker down and begin to hoard the benefits and hoard the wealth, and begin to throw overboard a certain segment of society and say, ''We don't care what happens to them. We don't really care.''

As I said before, God must spend a lot of days looking at all this and be very upset that we are so petty and moving in such a negative direction so rapidly.

But all hope is not lost, because there are great things happening all over the world. The accumulation of all these great things may begin to have an impact on what is happening here in this country.

Even in this country, the Southern Baptist Church last week apologized for their position on slavery, the Southern Baptist Church, which was created as a result of a schism at the time of the Civil War. The big issue in the Southern Baptist Church was that they wanted to label African-Americans, Negroes, as being less than human and not worthy of God's blessings, that they were not to be considered in the Christian church as equals.

They apologized. The Southern Baptists apologized. They voted, large number of delegates, to apologize and to take note of the fact that the evils that were generated by slavery still exist and they must work to eradicate them. The Southern Baptists did that.

Some people say, well, their membership is declining. There is some ulterior motive. I do not care. They did it. For one glorious moment, they rose to the occasion and they admitted that they wanted to tell the truth, they wanted to be a part of the truth, they wanted to get away from the doctrine of obliteration. The doctrine of obliteration said that the African-American, the African transported here, was not a human being, and therefore they could be made beasts of burden, more efficient beasts of burden, by treating them like beasts. The Southern Baptists represent just one of those many areas where there is hope.

There is hope in the Supreme Court, too, when Ruth Bader Ginsburg writes the decision of the kind that she wrote. Justice Ginsburg took just the opposite approach of Justice Kennedy, who wrote the decision for the majority. Justice Kennedy based his ruling on the Shaw versus Reno case. I think the majority opinion for that was written by Justice O'Connor, with Justice Clarence Thomas, of course, supporting it in great measure.

Justice Ginsburg says that it is not common sense. It is not obvious to her, as the law is made and the intent of the constitutional amendment is examined, it is not at all clear to her that the 14th amendment is primarily concerned with being colorblind and not concerned with remedying past wrongs, which the full legal integration of the African-Americans, the former salves and their descendants into American life.

Let me must read a few excerpts from Justice Ginsburg's dissenting opinion. As you know, it was a 5–4 decision, and Justice Ginsburg was joined in her dissent by Justices Stevens, Bryant and Souter.

Legislative districting is highly political business. This Court has generally respected the competence of state legislatures to attend to the task. When race is the issue, however, we have recognized the need for judicial intervention to prevent dilution of minority voting strength.

□ 1600

Generations of white discrimination against African-Americans as citizens and voters account for that surveillance.

In other words, what she is saying is that we have generally kept our hands off, the judiciary has kept its hands off the reapportionment process.

There was a series of cases that established clearly that it was better to leave it to the State legislature and the only regular, systematic intervention of the courts came with the Voting Rights Act for the purpose of dealing with the problem of giving African-Americans their full voting rights and avoiding the dilution of the voting strength of minorities.

I go back to Justice Ginsburg's dissent, and I quote:

Two years ago in Shaw versus Reno this Court took up a claim analytically distinct from a vote-dilution claim. Shaw authorized judicial intervention in extremely irregular apportionments.

In other words she is saying that we started something 2 years ago when we considered the North Carolina case, Shaw versus Reno. For the first time we moved away from the voter-dilution concern of the Court and we moved into a new era. We moved into an area where extremely irregular apportionments, the way the district looked, or the circumstances under which the district was created, became a concern of the Court. And she does not agree, of course, that that movement was justified.

To continue quoting Justice Ginsburg:

Today the Court expands the judicial role announcing that Federal courts are to undertake searching review of any district with contours predominantly motivated by race. Strict scrutiny will be triggered not only when traditional districting practices are abandoned, but also when those practices are subordinated to, given less weight, than race.

Applying this new ''race-as-predominant-factor'' standard, the Court invalidates Georgia's districting plan, even though Georgia's Eleventh District, the focus of today's dispute, bears the imprint of familiar districting practices. Because I do not endorse the Court's new standard and would not upset Georgia's plan, I dissent.

Continuing to quote Justice Ginsburg:

At the outset it may be useful to note points on which the court does not divide. First, we agree that federalism and the slim judicial competence to draw district lines weigh heavily against judicial intervention in apportionment decisions; as a rule, the task should remain within the domain of state legislatures.

Second, for most of our Nation's history, the franchise has not been enjoyed equally by black citizens and white voters.

I want to just repeat; I am quoting from Justice Ginsburg and I want to read that again:

For most of our Nation's history the franchise has not been enjoyed equally by black citizens and white voters.

To redress past wrongs and to avert any recurrence of exclusion of blacks from political processes, Federal courts now respond to Equal Protection Clause and Voting Rights Act complaints of state action that dilutes minority voting strength.

Third, to meet statutory requirements, state legislatures must sometimes consider race as a factor highly relevant to the drawing of district lines.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The gallery is admonished that there should be silence in the Chamber so that the Representative may continue with this special order.

Mr. OWENS. Returning to quote Justice Ginsburg:

Finally State legislatures may recognize communities that have a particular racial or ethnic makeup, even in the absence of any compulsion do so, in order to account for interests common to or shared by persons grouped together. When members of a racial group live together in one community, a reapportionment plan that concentrates members of the group in one district and excludes them from others may reflect wholly legitimate purposes.

Therefore, the fact that the Georgia General Assembly took account of race in drawing district lines—a fact not in dispute—does not render the State's plan invalid. To offend the Equal Protection Clause, all agree the legislature had to do more than consider race. How much more, is the issue that divides the Court today.

Continuing to quote Justice Ginsburg, her dissent:

We say once again what has been said on many occasions: Reapportionment is primarily the duty and responsibility of the State through its legislature or other body, rather than of a Federal court.

Districting inevitably has sharp political impact, and political decisions must be made by those charged with the task. District lines are drawn to accommodate a myriad of factors, geographic economic, historical and political, and State legislatures, as arenas of compromise, electoral accountability, are best positioned to mediate competing claims; courts, with a mandate merely to adjudicate, are ill-equipped for this task.

Federal courts have ventured now into the political thicket of reapportionment when necessary to secure to members of racial minorities equal voting rights, rights denied in many States, including Georgia, until not long ago.

The 15th amendment, which was ratified in 1870, declared that the right to vote shall not be denied by any State on account of race. That declaration, for many generations, was often honored in the breach; it was greeted by a near century of unremitting and ingenious defiance in several States, including Georgia.

I am quoting from the dissenting opinion of Justice Ruth Bader Ginsburg, and I want to repeat this sentence.

The 15th amendment, ratified in 1870, declared that the right to vote shall not be denied by any State on account of race. That declaration, for many generations, was often honored in the breach; it was greeted by a near century of unremitting and ingenious defiance by several States, including Georgia.

After a brief interlude of black suffrage enforced by Federal troops but accompanied by rampant victims against blacks, Georgia held a constitutional convention in 1877. Its purpose, according to the convention's leader, was, to fix it so that the people shall rule and the Negro shall never be heard from.

In pursuit of this objective, Georgia enacted a cumulative poll tax, requiring voters to show they had paid past as well as current poll taxes; one historian described this tax as the most effective bar to Negro suffrage ever devised.

In 1890, the Georgia General Assembly authorized white primaries; keeping blacks out of the Democratic primary effectively excluded them from Georgia's political life, for victory in the Democratic primary in those days was tantamount to election.

Early in this century Georgia Governor Hoke Smith persuaded the legislature to pass the Disenfranchisement Act of 1908. True to its title, this measure added various property, good character, and literacy requirements that, as administrated, served to keep blacks from voting. The result, as one commentator observed 25 years later, was an almost absolute exclusion of the Negro voice in State and Federal elections.

Disenfranchised blacks had no electoral influence, hence no muscle to lobby the legislature for change, and that is when the Court intervened. It invalidated white primaries and other burdens on minority voting.

It was against this backdrop that the Court, construing the Equal Protection Clause, undertook to ensure that apportionment plans do not dilute minority voting strength. By enacting the Voting Rights Act of 1965, Congress heightened Federal judicial involvement in apportionment, and also fashioned a role for the Attorney General. Section 2 creates a Federal right of action to challenge vote dilution. Section 5 requires States with a history of discrimination to preclear any changes in voting practices with either a Federal court or the Attorney General.

And on and on it goes to show that the Voting Rights Act was in response to a definite, long-range oppression of the rights of African-Americans at the ballot box. Justice Ginsburg makes it quite clear that the Equal Protection Clause does not rule out extraordinary measures being taken by the Federal Government to deal with past wrongs and to compensate for what happened in 232 years of slavery and the period of disenfranchisement that followed. She argues with the basic principle that is established by Justice O'Connor in Shaw versus Reno. She does not accept that premise.

But then Justice Ginsburg moves on to another area. She says that even if you accept the reasoning of Shaw versus Reno, even if you accept Justice O'Connor's contention that race cannot be the predominant consideration in drawing districts, political districts, even if you accept that and apply it, the 11th District in Georgia meets the standards. The 11th District in Georgia is no more a district drawn with predominant race considerations than any other district in Georgia. It considers other factors also. It does not cross but a few county lines, and some districts cross a number of county lines. The 11th District of Congresswoman CYNTHIA MCKINNEY of Georgia is more regular than 28 districts in the country that are cited as being the 28 most oddly-drawn districts in the country.

So Justice Ginsburg applied the standard of Shaw versus Reno and still concludes that even if you applied that standard, the 11th Congressional District should not have been invalidated.

I urge all Americans who really want to take a close look at what the Supreme Court did to not just read the majority opinion; read the dissenting opinion. It was a 5-to-4 decision and that 5-to-4 decision means that some day the reasoning of Justice Ginsburg may be the basis for overturning that decision.

I also said before this was a serious matter. I want to address myself particularly to the African-American community. This is a serious matter. We have a situation where on that same Court, rendering several of the decisions that have affected school integration, affirmative action and now voting rights, is a justice who happens to be African-American.

Justice Clarence Thomas is on that Supreme Court. Justice Clarence Thomas is an African-American, and there are some who believe that the Court is emboldened even more in its pursuit of the dismantling of voting rights and affirmative action, and set-asides as a result of Justice Thomas being there as an African-American.

There are some who say that Justice Clarence Thomas is the most powerful African-American in the country, and there are some who say, being the most powerful African-American in the country, he is the most dangerous African-American in the country. There are some who say that his presence and his continued support for the opinions which are destroying affirmative action, set-asides, and voting rights constitute a special kind of problem.

There are some who say that at least Justice Thomas is honest and he is clearly on the side of the conservatives, and, therefore, we have to respect his opinions. The greater danger they say may not be Clarence Thomas, but those who do not openly say they are conservative, who are masquerading as leaders in the African-American community, and they share the same opinions as Justice Clarence Thomas.

Justice Clarence Thomas's case was well-known to most of us. The vote on Justice Thomas in the Senate got a great deal of publicity, and there were a number of us in Congress, including all of the members of the Congressional Black Caucus, who opposed the appointment of Justice Clarence Thomas at the very beginning, long before there was any discussions of his private life, which we think was wholly out of order. Long before that had happened, a position had been taken by the members of the Congressional Black Caucus against the appointment of Justice Clarence Thomas to the Supreme Court.

As a member of the Education and Labor Committee, Justice Thomas in his previous employment as the head of EEOC had been before our committee numerous times, and Justice Thomas had clearly sabotaged the law he was hired to implement.

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Justice Thomas defied the intent of Congress. He ignored the intent of Congress. He ignored the directions of the committee. So we had a clear position, and I adamantly opposed the appointment of Justice Clarence Thomas long before any question was raised about his personal life. I make that distinction because so much confusion resulted from the fact that an unprecedented situation developed where the personal life of an official seeking public office was aired in public.

I totally agreed with Justice Thomas on one point. It was a high-technology lynching. It should never have been considered in public. It should have been an inquiry held behind closed doors. It should have proceeded as all personnel matters proceed. It was a circus which was most unfortunate.

Of course, there were many people who opposed him because of his record, opposed him because of his ideology, who were swayed by the problem that he faced, and later changed their opinion. But steadfastly we insisted that a record like the record of Justice Thomas in Government made it clear that he would be an enemy of the forces of civil rights, the forces of civil liberties, and of the African-American people.

I mention this because in these critical days when there is an attempt to dismantle all of the gains that have been made by the African-Americans over the last 50 years; in these critical days when the second reconstruction is being trampled, the one reconstruction was trampled, and all of the Members of Congress who were black were removed from Congress, we are not facing a situation quite that bad, but in many ways the economic impact of the decisions that are being made will be even harsher on the African-American population in general.

So here we are in a critical situation. There is a state of emergency. Our leadership and people we select as leaders is critical, and what I am moving on to and what I am leading up to is

the fact that there were many in the leadership who knew very clearly what the positions of Justice Thomas were, yet they supported him because he was an African-American.

The danger in the African-American community now, the danger with respect to the leadership at this critical time is that we are going to again be taken in by the fact that the old standard of the black bourgeoise is allowed to predominate. Anybody who is educated, any, African American who achieves becomes a person we look up to, becomes a person we will not criticize. The standards within the African-American community for leadership, the standards get diluted.

You do not have to clearly stand for policies, public policies, which are in the interests of the masses of African-American people. People who back away from those standards can still serve as leaders. They can enjoy the status of leaders. They can pronounce themselves as leaders and get away with it.

It is important that at this critical moment we understand that many people who made the error of supporting Justice Thomas because he was an African American are the kind of people we must avoid in the future, the kind of people who have to come to grips with what are the basic policy provisions that should be set forth in the African-American community at a critical time like now.

Can we have people voting for B–2 bombers which may cost $31 billion over a 7-year period and at the same time they are cutting Medicaid, at the same time they are cutting school lunches and at the same time draconian measures in the area of housing? The rescissions bill that was passed today cuts low-income housing by $7 billion. Can we have leaders who fail to understand that those are the public policies that impact on the greatest number of African-American people? And they have a duty to fight to see to it that those policies which are detrimental to our people do not go forward.

Can we understand that there must be an evaluation of leadership so that we do not have an elected bourgeoisie carrying out their own private personal agenda while they ignore the public agenda of the African-American community?

This decision by the Supreme Court and all the other things that have happened in the last few months are a warning. If we do not understand that there is a state of emergency now, we will never understand that. The Clarence Thomases have clearly proclaimed where they stand. There are some Members of the Congress, some black Members, who clearly proclaim they do not want to be part of the Black Caucus. They do not want to represent black interests.

I admire people who clearly say where they stand. On the other hand, the Benedict Arnolds we must worry about.

I want to close with a statement that I sent out to all of the African-American leadership. It is kind of a convoluted, indirect statement because during the time when Justice Clarence Thomas was under consideration for the appointment, even after the congressional Black Caucus was taking a position opposed to his appointment even after the NAACP had taken a position, even after the leading civil rights organizations had taken a position, there were leaders who came forward and said because he is black, we should not oppose him.

One of those leaders wrote an article in the New York Times, and it particularly struck me at that time as being devastating to our position One of those leaders in the cultural field wrote a very piercing op-ed piece for the New York Times where she said, ''I know that he is guilty of not running the EEOC in accordance with the law. I know he has trampled on our interests on many occasions. I know this, I know that. All of this is true, but, still, he should be given a chance.'' And I have that ringing in my ears every time a Supreme Court decision comes down, ''Still, he should be given a chance. He will change.''

That was Maya Angelous, a poet I respect a great deal, a poet that has become more famous since her famous poem was recited at the presidential inauguration. I think Maya Angelous and the other leaders who supported Clarence Thomas now need to go talk to Clarence Thomas. They need to also let the rest of the African-American community understand the implications of what is happening.

So I have written a little statement here, Maya Angelous, I am addressing it to:

GO TALK TO CLARENCE THOMAS

Maya talk to Clarence please
He's knocking us down to our knees
Clarence is talking real loud
Running with the wrong crowd
Dangerous opinions he always writes
Hurling our people toward long poison nights
Maya talk to Clarence please
In the name of Black ancestors who drowned in the seas
Talk to Clarence
End his heathen roam
Haul him to his heritage home
Maya you recognized his record of public sin
You promised that Clarence would be born again
The miracle of Hugo Black and Earl Warren would be repeated
Maya you promised ideological addiction would be defeated
Maya time to make your move a sacred point you still have to prove
Maya talk to Clarence please!

I would say that to all the other leaders who supported Justice Clarence Thomas. I would say that to all the other leaders who support compromise and are ready to forget about the interests of the thousands of African Americans out there who are suffering because public policies are being perpetuated, public policies are being perpetuated which will hurt them directly.

The rescission bill, with all of its cuts of low-income housing, would hurt African Americans directly. The B–2 bomber, being taken as a priority over Medicaid, over free lunches, will hurt African-Americans directly.

It is time we all understood that there is a state of emergency in the African-American community. The African-American leaders will have to rise to the occasion and lead in the interests of all African-Americans.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. YOUNG of Alaska (at the request of Mr. ARMEY), for today, on account of personal reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. ENGEL) to revise and extend their remarks and include extraneous material:)

Mr. DEFAZIO, for 5 minutes, today.

Mr. FALEOMAVAEGA, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mr. WISE, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

(The following Members (at the request of Mr. GUTKNECHT) to revise and extend their remarks and include extraneous material:)

Mr. GUTKNECHT, for 5 minutes, today.

Mr. FOX of Pennsylvania, for 5 minutes, today.

Mr. FOLEY, for 5 minutes, today.

Mr. SCARBOROUGH, for 5 minutes, today.

ENROLLED BILLS SIGNED

Mr. THOMAS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 483. An act to amend the Omnibus Budget Reconciliation Act of 1990 to permit medicare select policies to be offered in all States.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 962. An act to extend authorities under the Middle East Peace Facilitation Act of 1994 until August 15, 1995.

ADJOURNMENT

Mr. OWENS. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore (Mrs. MORELLA). Pursuant to the provisions of Senate Concurrent Resolution 20, 104th Congress, the House stands adjourned until 2 p.m. on Monday, July 10, 1995, for morning hour debates.

Whereupon (at 4 o'clock and 20 minutes p.m.), pursuant to Senate Concurrent Resolution 20, the House adjourned until Monday, July 10, 1995, at 2 p.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports concerning the foreign currencies and U.S. dollars utilized by a committee of the U.S. House of Representatives during the first quarter of 1995 in connection with official foreign travel, pursuant to Public Law 95–384, as well as the 1994 supplemental expenses of a miscellaneous group, U.S. House of Representatives, concerning foreign currencies expended by them in connection with official foreign travel, are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON THE JUDICIARY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1995.

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. John Conyers, Jr	3/10	3/11	Haiti		150.00		([3])				150.00
Hon. Jack Reed	3/10	3/11	Haiti		150.00		([3])				150.00
Committee total					300.00						300.000

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Air transportation was provided by the Department of Defense.

HENRY J. HYDE,
Chairman, May 16, 1995.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL NORTH ATLANTIC ASSEMBLY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1994.

Name of member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Delegation expenses:											
Visit of Subcommittee on Defense Security to Wash, DC, California, and New York:											
Luncheon	1/23	1/28							875.00		875.00
Interpreters	1/23	1/28							350.00		350.00
Ground transportation	1/23	1/28							2,546.00		2,546.00
Peter Abbruzzese	1/23	1/28			376.43		643.00				1,019.43
NAA delegation to Ottawa, Canada—Rose/Roth Seminar:											
Hon. Sherwood Boehlert	1/16	1/18			41.70		195.60				237.30
NAA delegation to Belgium:											
Breakfast	2/18	2/18							427,33		427.33
NAA delegation to Oslo, Norway:											
Ground transportation	5/26	5/30							362.54		362.54
Representational functions	5/26	5/30							4,040.74		4,040.74
Visit of political committee to Washington, DC, California											
Interpreters	6/19	6/24							2,100.73		2,100.79
Luncheon	6/19	6/24							1,028.50		1,028.50
Ground transportation	6/19	6/24							402.40		402.50
Representational functions	6/19	6/24							394.10		394.10
Peter Abbruzzese	6/19	6/24			927.77		935.00				1,862.77
NAA delegation to Rose/Roth Seminar in Romania:											
Stuart Goldman	7/12	7/19			968.00		1,738.25				2,706.25
Visit of Subcommittee on Future of Armed Forces:											
Luncheon	8/8	8/8							800.90		800.90
NAA 40th Annual Session in Washington, DC:											
Representational function	11/14	11/18							317.22		317.22
Ground transportation	11/14	11/18							1,437.50		1,437.50
Miscellaneous expenses	11/14	11/18							125.55		125.55
Miscellaneous expenses									18.90		18.90
Committee total					2,313.90		3,511.85		15,228.17		21,053.92

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S dollar equivalent; if U.S. currency is used, enter amount expended.

Charlie Rose,
June 14, 1995.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1140. A letter from the Secretary of the Treasury, transmitting the Department's first semiannual report to Congress, as required by section 403 of the Mexican Debt Disclosure Act of 1995, and the second monthly report to Congress, as required by section 404 of the same act, pursuant to Public Law 104–6, section 403(a) (109 Stat. 89); to the Committee on Banking and Financial Services.

1141. A letter from the First Vice President and Vice Chairman, Export-Import Bank of the United States, transmitting a report involving United States exports to Columbia, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking and Financial Services.

1142. A letter from the Secretary of Education, transmitting a draft of proposed legislation entitled, the ''Individuals with Disabilities Education Act Amendments of 1995''; to the Committee on Economic and Educational Opportunities.

1143. A letter from the Corporation for Public Broadcasting, President and CEO, transmitting the triennial assessment of the needs of minority and diverse audiences, and the Corporation's annual report on the provision of services to minority and diverse audiences by public broadcasting entities and public telecommunication entities, pursuant to Public Law 100–626, section 9(a) (102 Stat. 3211); to the Committee on Commerce.

1144. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

1145. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 95–28: Drawdown of commodities and services from the inventory and resources of the Departments of Defense, Justice, the Treasury and State to support accelerated training and equipping of Haitian police forces, pursuant to 22 U.S.C. 2348a(c)(2); to the Committee on International Relations.

1146. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–81, ''Closing of a Public Alley in Square 2567, S.O. 93–47, Act of 1995,'' pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1147. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–82, ''Prevention of Transmission of the Human Immunodeficiency Virus Temporary Amendment Act of 1995,'' pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1148. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–83, ''Closing of a Public Alley in Square 368, S.O. 94–52, Act of 1995,'' pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1149. A letter from the Chairman, Federal Election Commission, transmitting proposed regulations that define express advocacy and describe those nonprofit corporations that are exempt from the independent expenditure prohibition (11 C.F.R. 100.17, 100.22, 106.1, 109.1, 114.2, and 114.10), pursuant to 2 U.S.C. 438(d)(1); to the Committee on House Oversight.

1150. A letter from the Railroad Retirement Board, transmitting the 1995 annual report on the financial status of the railroad unemployment insurance system, pursuant to 45 U.S.C. 369; jointly, to the Committees on Transportation and Infrastructure and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Alaska: Committee on Resources. H.R. 39. A bill to amend the Magnuson Fishery Conservation and Management Act to improve fisheries management; with an amendment (Rept. 104–171). Referred to the Committee of the Whole House on the State of the Union.

Mr. SKEEN. Committee on Appropriations. H.R. 1976. A bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1996, and for other purposes (Rept. 104–172). Referred to the Committee of the Whole House on the State of the Union.

Mr. REGULA: Committee on Appropriations. H.R. 1977. A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1996, and for other purposes (Rept. 104–173). Referred to the Committee of the Whole House on the State of the Union.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

Referral to the Committee on Science of H.R. 1175 extended for a period ending not later than July 11, 1995.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CHRISTENSEN (for himself, Mr. ARMEY, Mr. DELAY, Mr. BLILEY, Mr. HYDE, Mr. KASICH, Mr. LIVINGSTON, Mrs. MEYERS of Kansas, Mr. ROBERTS, Mr. WALKER, Mr. CRANE, Mr. THOMAS, Mr. BUNNING of Kentucky, Mr. MCCRERY, Mr. HANCOCK, Mr. CAMP, Mr. RAMSTAD, Mr. ZIMMER, Mr. SAM JOHNSON, Ms. DUNN of Washington, Mr. PORTMAN, Mr. ENGLISH of Pennsylvania, Mr. ENSIGN, Mr. BARTLETT of Maryland, Mr. BILIRAKIS, Mr. BLUTE, Mr. BREWSTER, Mr. BROWNBACK, Mr. BRYANT of Tennessee, Mr. BUNN of Oregon, Mr. BURR, Mr. CANADY of Florida, Mr. CHRYSLER, Mr. COBLE, Mr. COX of California, Mr. CRAMER, Mrs. CUBIN, Mr. CUNNINGHAM, Mr. DAVIS, Mr. DEAL of Georgia, Mr. DICKEY, Mr. DOOLITTLE, Mr. DORNAN, Mr. DREIER, Mr. EMERSON, Mr. EWING, Mr. FOX of Pennsylvania, Mr. GALLEGLY, Mr. GANSKE, Mr. GILCHREST, Mr. GUTKNECHT, Mr. HASTERT, Mr. HAYWORTH, Mr. HEINEMAN, Mr. HILLEARY, Mr. HOEKSTRA, Mr. HOSTETTLER, Mr. HUNTER, Mr. HUTCHINSON, Mr. INGLIS of South Carolina, Mr. JONES, Mr. KIM, Mr. KINGSTON, Mr. LARGENT, Mr. LATHAM, Mr. LATOURETTE, Mr. LINDER, Mr. LONGLEY, Mr. LUCAS, Mr. MCINTOSH, Mr. MARTINEZ, Mr. METCALF, Mr. MICA, Mr. MOORHEAD, Mrs. MYRICK, Mr. NEUMANN, Mr. NORWOOD, Mr. PORTER, Mr. RIGGS, Mr. ROHRABACHER, Mr. ROTH, Mr. SCARBOROUGH, Mr. SHADEGG, Mr. SMITH of Michigan, Mr. SMITH of New Jersey, Mr. SMITH of Texas, Mrs. SMITH of Washington, Mr. SOUDER, Mr. STOCKMAN, Mr. STUMP, Mr. TALENT, Mr. TIAHRT, Mr. TOWNS, Mr. UPTON, Mr. WALSH, Mr. WAMP, Mr. WATTS of Oklahoma, Mr. WELDON of Florida, Mr. WICKER, Mr. WOLF, and Mr. ZELIFF):

H.R. 1972. A bill to amend the Internal Revenue Code of 1986 to clarify the standards used for determining whether individuals are not employees; to the Committee on Ways and Means.

By Mr. DEFAZIO (for himself, Mr. NEUMANN, Mr. BECERRA, Mr. BROWNBACK, Mr. FRANK of Massachusetts, Ms. FURSE, Mr. GUNDERSON, Ms. KAPTUR, Mr. MEEHAN, Mrs. MALONEY, and Mrs. SCHROEDER):

H.R. 1973. A bill to reduce the number of operational support aircraft of the Department of Defense; to the Committee on National Security.

By Mr. BASS (for himself, Mr. BARTLETT of Maryland, Mr. BARTON of Texas, Ms. DANNER, Mr. DAVIS, Mr. KLUG, Mr. SMITH of Michigan, Mr. SOUDER, Mr. STOCKMAN, Mr. KASICH, Mr. SOLOMON, and Mr. HOSTETTLER):

H.R. 1974. A bill to amend title XVI of the Social Security Act to require periodic reapplications with respect to the continued receipt of supplemental security income benefits, to require that the administrative criteria regarding mental impairments be modified, and for other purposes; to the Committee on Ways and Means.

By Mr. CALVERT (for himself, Mr. BREWSTER, Mr. DOOLEY, Mr. TAUZIN, and Mr. LUCAS):

H.R. 1975. A bill to improve the management of royalties from Federal and Outer Continental Shelf oil and gas leases, and for other purposes; to the Committee on Resources.

By Mr. SKEEN:

H.R. 1976. A bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1996, and for other purposes.

By Mr. REGULA:

H.R. 1977. A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1996, and for other purposes.

By Mr. COX (for himself and Mr. WYDEN):

H.R. 1978. A bill to encourage and protect private sector initiatives that improve user control over computer information services; to the Committee on Commerce.

By Mr. DUNCAN (for himself and Mr. TALENT):

H.R. 1979. A bill to protect the rights of small entities subject to investigative or enforcement action by agencies, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Small Business, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FARR (for himself, Mr. MINETA, Mr. BERMAN, Mr. SERRANO, Ms. LOFGREN, Mr. DELLUMS, Mr. GENE GREEN of Texas, Ms. PELOSI, and Ms. ROYBAL-ALLARD):

H.R. 1980. A bill to provide for demonstration projects throughout the United States in order to celebrate the process of becoming and being an American citizen; to the Committee on the Judiciary.

By Mr. FRANKS of New Jersey (for himself, Mr. BARRETT of Nebraska, Mr. CANADY of Florida, Mr. ENGLISH of Pennsylvania, Mr. FOLEY, Mr. GILLMOR, Mr. KLUG, Mr. LOBIONDO, Mr. LUTHER, Mr. PAXON, Mr. POSHARD, Mr. RIGGS, Mr. ROYCE, Mr. SMITH of Texas, and Mr. ZIMMER):

H.R. 1981. A bill to amend the Federal Property and Administrative Services Act of 1949 to require executive agencies to procure property and services related to motor vehicle pools or systems only under contracts awarded under competitive procedures in accordance with rules issued by the Director of the Office of Management and Budget and to report to the Director regarding costs associated with agency operation of motor vehicle fleets; to the Committee on Government Reform and Oversight.

By Ms. FURSE:

H.R. 1982. A bill to provide grants to the States to encourage the reporting of blood alcohol levels that exceed the maximum level permitted under State law after vehicular accidents; to the Committee on the Judiciary, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GEKAS:

H.R. 1983. A bill to provide that certain hearings functions of the Merit Systems Protection Board be performed only by administrative law judges, and for other purposes; to the Committee on Government Reform and Oversight.

By Mr. INGLIS of South Carolina (for himself, Mr. STENHOLM, Mr. SOLOMON,

Mr. FIELDS of Texas, Mrs. MYRICK, Mr. SMITH of Texas, Mr. MICA, Mr. HASTINGS of Washington, and Mr. MCCOLLUM):

H.R. 1984. A bill to phase out funding for the death penalty resource centers; to the Committee on the Judiciary.

By Mr. KENNEDY of Massachusetts (for himself, Mr. BURTON of Indiana, Mr. SMITH of New Jersey, Mr. MATSUI, Mrs. MALONEY, Mr. UNDERWOOD, Mr. EHLERS, Mr. BUNNING of Kentucky, Mr. THORNBERRY, Mr. BARTON of Texas, Mr. BRYANT of Tennessee, Mr. OBERSTAR, Mr. FROST, Mr. DELLUMS, Mr. DORNAN, Mr. ACKERMAN, Mr. JACOBS, Mr. STUPAK, Mr. SOLOMON, Mr. EVANS, Mr. PETE GEREN of Texas, Mr. HASTINGS of Florida, Mr. SERRANO, Mr. PAYNE of Virginia, Mr. FATTAH, and Mr. BARRETT of Wisconsin):

H.R. 1985. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income employee and military adoption assistance benefits and withdrawals from IRA's for certain adoption expenses; to the Committee on Ways and Means.

By Mr. KILDEE (for himself, Mr. CLAY, Mr. OWENS, Mr. MILLER of California, Mr. SAWYER, Ms. WOOLSEY, Mr. WILLIAMS, and Mr. MARTINEZ):

H.R. 1986. A bill to reauthorize and improve the Individuals with Disabilities Education Act; to the Committee on Economic and Educational Opportunities.

By Mr. KIM:

H.R. 1987. A bill to limit congressional travel to North Korea; to the Committee on House Oversight.

By Ms. MOLINARI:

H.R. 1988. A bill to amend the United States Housing Act of 1937 to provide for more expeditious evictions from public housing, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. MOORHEAD (for himself and Mrs. SCHROEDER) (both by request):

H.R. 1989. A bill to make improvements in the operation and administration of the Federal courts, and for other purposes; to the Committee on the Judiciary.

By Mr. OBERSTAR:

H.R. 1990. A bill to provide for the exchange of certain lands in the Superior National Forest for certain lands owned by Cook County, Lake County, and St. Louis County, MN, in the Boundary Water Canoe Area Wilderness; to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STUPAK:

H.R. 1991. A bill to change the authorized depth for the project for navigation at Manistique Harbor, MI, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mrs. THURMAN:

H.R. 1992. A bill to modify the Suwannee River navigation project, FL, to authorize dredging of the McGriff Pass instead of the East and Alligator Passes; to the Committee on Transportation and Infrastructure.

By Mr. TIAHRT (for himself, Mr. BROWNBACK, Mr. BASS, Mr. BARTLETT of Maryland, Mr. COBURN, Mr. CREMEANS, Mr. FOLEY, Mr. SHADEGG, Mr. ARMEY, Mr. DELAY, Mr. BOEHNER, Mr. KASICH, Mr. SOLOMON, Mr. SCARBOROUGH, Mr. NEUMANN, Mr. HOSTETTLER, Mr. EWING, Mrs. WALDHOLTZ, Mrs. MYRICK, Mr. SMITH of Michigan, Mr. PACKARD, Mr. PARKER, Mr. CHRISTENSEN, Mr. CRANE, Mr. DORNAN, Mr. LOBIONDO, Mr. STOCKMAN, Mr. HANCOCK, Mr. HOEKSTRA, Mr. WICKER, Mrs. SEASTRAND, Mr. ROYCE, Mr. GUTKNECHT, Mr. CHRYSLER, Mrs. LOWEY, Mr. MILLER of Florida, Mr. HUTCHINSON, Mr. KLUG, Mr. FUNDERBURK, Mr. LINDER, Mr. HOKE, Ms. DUNN of Washington, Mr. TATE, Mr. WHITE, Mr. NETHERCUTT, Mr. METCALF, Mrs. CUBIN, Mrs. CHENOWETH, Mr. SAM JOHNSON, and Mrs. SMITH of Washington):

H.R. 1993. A bill to abolish the Department of Energy; to the Committee on Commerce, and in addition to the Committees on National Security, Science, Resources, Rules, and Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. VUCANOVICH:

H.R. 1994. A bill to amend title 10, United States Code, to provide for future cost-of-living adjustments for military retirees on the same basis as applies to Federal civil service retirees; to the Committee on National Security, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FOX (for himself, Mr. CLINGER, Mr. MCINTOSH, Mr. OXLEY, Mr. MILLER of Florida, Mr. BILBRAY, Mr. BLUTE, Mr. LATOURETTE, Mr. PETERSON of Minnesota, Mr. WELDON of Florida, Mr. FRISA, Mr. COX, and Mr. COOLEY):

H.R. 1995. A bill to amend the Federal Food, Drug, and Cosmetic Act to make improvements in the regulation of drugs; to the Committee on Commerce.

By Mr. FIELDS of Texas:

H.R. 1996. A bill to amend the Internal Revenue Code of 1986 to provide a mechanism for taxpayers to designate $1 of any overpayment of income tax, and to contribute other amounts, for use by the U.S. Olympic Committee; to the Committee on Ways and Means.

By Mr. GONZALEZ:

H.J. Res. 99. Joint resolution proposing an amendment to the Constitution of the United States to prohibit the death penalty; to the Committee on the Judiciary.

By Mr. FALEOMAVAEGA (for himself, Mr. HAMILTON, Mr. LEACH, Mr. BEREUTER, Mr. BERMAN, Mr. SMITH of New Jersey, Mr. LANTOS, Mr. ROHRABACHER, Mr. ACKERMAN, Mr. KIM, Mr. UNDERWOOD, Mrs. MINK of Hawaii, Mr. ABERCROMBIE, Mr. MARKEY, Mr. DEFAZIO, and Mr. MINETA):

H. Con. Res. 80. Concurrent resolution expressing the sense of Congress that the United States should recognize the concerns of the peoples of Oceania and call upon the Government of France to cease all nuclear testing at the Moruroa and Fangataufa atolls; to the Committee on International Relations.

By Mr. SAM JOHNSON of Texas (for himself, Mr. HUNTER, Mr. DORNAN, Mr. CUNNINGHAM, Mr. ROHRABACHER, and Mr. SOLOMON):

H. Con. Res. 81. Concurrent resolution expressing the policy of the United States with respect to the normalization of relations with the Socialist Republic of Vietnam; to the Committee on International Relations.

By Mr. ROYCE (for himself and Mr. MINGE):

H. Res. 182. Resolution amending the Rules of the House of Representatives to require the reduction of section 602(b)(1) suballocations to reflect floor amendments to general appropriation bills, and for other purposes; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

124. By the SPEAKER: Memorial of the Legislature of the State of Nebraska, relative to Taiwan; to the Committee on International Relations.

125. Also, memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to memorializing the U.S. Postal Service to issue a coal miners' postal stamp; to the Committee on Government Reform and Oversight.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 46: Mr. EMERSON and Mr. BATEMAN.

H.R. 65: Mr. OLVER, Mr. GREENWOOD, Mr. HOLDEN, and Mr. MENENDEZ.

H.R. 218: Mr. STOCKMAN.

H.R. 262: Mr. POSHARD.

H.R. 303: Mr. GREENWOOD, Mr. MCKEON, Mr. HOLDEN, and Mr. MENENDEZ.

H.R. 359: Mr. YOUNG of Florida and Mr. TAYLOR of North Carolina.

H.R. 390: Mrs. WALDHOLTZ.

H.R. 394: Mr. BROWDER, Mr. CAMP, Ms. WOOLSEY, Mr. HUTCHINSON, and Mr. BONILLA.

H.R. 427: Mr. HAYWORTH, Mrs. VUCANOVICH, Mr. HEFLEY, and Mr. SOUDER.

H.R. 436: Mr. BAKER of Louisiana, Mr. BATEMAN, Mr. KIM, Mr. EHLERS, Mr. LAHOOD, Mr. CALVERT, Mr. FAWELL, Mr. DORNAN, and Mr. PETERSON of Minnesota.

H.R. 497: Mr. BRYANT of Texas.

H.R. 540: Mr. WYDEN, Mr. WAXMAN, Mr. TORKILDSEN, and Mr. TOWNS.

H.R. 662: Mr. MCCOLLUM, Mr. ENGLISH of Pennsylvania, Mr. ZELIFF, and Mr. WELLER.

H.R. 670: Mr. FROST and Mrs. MEEK of Florida.

H.R. 743: Mr. CANADY and Mr. MCCOLLUM.

H.R. 747: Mr. HANCOCK and Mr. ZIMMER.

H.R. 752: Mr. COSTELLO, Mr. GUTKNECHT, Mr. PAYNE of New Jersey, Mr. SMITH of New Jersey, Mr. LUTHER, Mrs. CUBIN, Mr. TAYLOR of North Carolina, Mr. WELDON of Pennsylvania, Mr. LONGLEY, Mr. SAXTON, Mr. PALLONE, Mr. WILSON, and Mr. HASTINGS of Florida.

H.R. 789: Mr. MCINNIS.

H.R. 797: Mr. RUSH.

H.R. 803: Mr. BURR and Mr. BONILLA.

H.R. 820: Mr. FROST, MR. HEINEMAN, Mrs. SCHROEDER, Mr. COMBEST, Mr. SPENCE, Mr. BILBRAY, Mr. ROYCE, Ms. FURSE, and Mr. TANNER.

H.R. 868: Mr. CLEMENT and Mr. MCHUGH.

H.R. 899: Mr. CHAMBLISS and Mrs. MINK of Hawaii.

H.R. 957: Mrs. KENNELLY, Mr. FOX, Mr. MCCOLLUM, and Mr. BOROSKI.

H.R. 963: Mr. LINDER, Mr. BARCIA of Michigan, Mr. OBERSTAR, Mr. PALLONE, Mr. LEWIS of Kentucky, Mr. WELDON of Pennsylvania, Mr. DEFAZIO, Mr. GILLMOR, and Mr. MINGE.

H.R. 974: Mr. MARTINEZ, Mr. FROST, and Mr. CLEMENT.

H.R. 1003: Mr. STENHOLM.

H.R. 1061: Mr. DREIER.

H.R. 1100: Mr. REED.

H.R. 1114: Mr. KINGSTON.

H.R. 1162: Mr. HERGER.

H.R. 1222: Ms. ESHOO.

H.R. 1226: Mr. WICKER and Mr. KING.

H.R. 1242: Mr. WICKER.

H.R. 1254: Mr. DELLUMS.

H.R. 1264: Mr. CONYERS.
H.R. 1289: Mr. DOOLITTLE.
H.R. 1339: Mr. WILLIAMS and Mr. KLUG.
H.R. 1406: Mr. WILSON.
H.R. 1448: Mr. HANCOCK.
H.R. 1458: Mr. HALL of Texas.
H.R. 1460: Mr. REYNOLDS and Mr. JOHNSON of South Dakota.
H.R. 1506: Mr. FATTAH.
H.R. 1513: Mr. UNDERWOOD and Mr. HOLDEN.
H.R. 1532: Mr. GREENWOOD.
H.R. 1533: Mr. ENGLISH of Pennsylvania, Mr. NEY, Mr. FOX, Mr. GRAHAM, Mr. LAHOOD, Mr. CHRYSLER, Mr. EHRLICH, Mr. COOLEY, Mr. WELLER, Mr. GUTKNECHT, Mr. FUNDERBURK, and Mr. DAVIS.
H.R. 1539: Mr. NEAL of Massachusetts, Mr. LEWIS of Georgia, Mr. RANGEL, Mr. PALLONE, Mr. WYNN, Mr. OBERSTAR, and Mr. MATSUI.
H.R. 1552: Mr. MARTINI, Mrs. MYRICK, Mr. MINGE, Mr. TATE, Mr. PETRI, Mr. COX, Mr. PAYNE of Virginia, Mr. MCINTOSH, Mr. LUTHER, Mr. CHAPMAN, Mrs. VUCANOVICH, and Mr. TEJEDA.
H.R. 1580: Mr. MCINNIS.
H.R. 1591: Mr. REYNOLDS.
H.R. 1594: Mr. FIELDS of Texas.
H.R. 1640: Mr. BOEHNER, Mr. GRAHAM, Mr. WICKER, Mr. HOKE, Mr. LARGENT, Mrs. CHENOWETH, Mr. ENSIGN, Mr. CUNNINGHAM, Mr. BALLENGER, Mr. MCKEON, Mrs. MYRICK, Mr. SALMON, Mr. TIAHRT, Mr. GUTKNECHT, Mr. BARTON of Texas, Mr. NEUMANN, Mr. HUNTER, and Mr. PAXON.
H.R. 1649: Mr. OBERSTAR and Mr. YOUNG of Alaska.
H.R. 1666: Mr. DINGELL and Mr. KNOLLENBERG.
H.R. 1709: Mr. CONYERS, Mr. FRANK of Massachusetts, Ms. FURSE, Mr. JACOBS, Mr. PETERSON of Minnesota, Mr. STARK, Ms. VELÁZQUEZ, and Mr. ZIMMER.
H.R. 1711: Mr. BUNNING of Kentucky, Mr. JACOBS, and Mr. BARCIA of Michigan.
H.R. 1732: Mr. PETERSON of Minnesota.
H.R. 1733: Mr. PETERSON of Minnesota.
H.R. 1739: Mr. MCCOLLUM.
H.R. 1742: Mr. DOOLEY, Mr. CLEMENT, and Mr. FRANK of Massachuetts.
H.R. 1744: Mr. COBURN and Mr. HOSTETTLER.
H.R. 1745: Mrs. CHENOWETH, Mr. DOOLITTLE, Mr. SAXTON, Mr. GALLEGLY, Mr. COOLEY, Mr. SKEEN, Mr. RADANOVICH, Mr. DUNCAN, Mr. STUMP, Mrs. CUBIN, Mr. ALLARD, Mr. JONES, Mr. YOUNG of Alaska, Mr. CALVERT, Mr. HERGER, Mr. SHADEGG, Mr. CRAPO, Mr. SOLOMON, Mr. HAYWORTH, Mr. HASTINGS of Washington, Mr. GILCHREST, Mr. HEFLEY, Mr. METCALF, Mr. LEWIS of California, Mr. POMBO, Mrs. SMITH of Washington, Mr. ENSIGN, Mr. TORKILDSEN, Mr. CREMEANS, Mr. THORNBERRY, Mr. LONGLEY, and Mr. SCHAEFER.
H.R. 1749: Mr. DORNAN, Mr. LIPINSKI, Mr. SCARBOROUGH, Mrs. ROUKEMA, and Mr. LEWIS of Georgia.
H.R. 1753: Mr. REGULA, Mr. MCDERMOTT, Mr. JACOBS, Mr. EMERSON, Mr. LAFALCE, Mr. DIXON, Mr. FROST, Mr. BRYANT of Texas, Mr. BARCIA of Michigan, Mr. MENENDEZ, Mr. JOHNSON of South Dakota, Mr. REED, Mr. ACKERMAN, Mr. BORSKI, Mr. TRAFICANT, Mr. CRAMER, Mr. SKAGGS, Mr. MCDADE, Mr. OBERSTAR, and Mr. PETE GEREN of Texas.
H.R. 1758: Ms. RIVERS and Mr. FATTAH.
H.R. 1776: Mr. FLAKE.
H.R. 1787: Mr. QUILLEN.
H.R. 1818: Mr. GOODLING, Mr. LOBIONDO, Mr. DREIER, and Mr. BONILLA.
H.R. 1833: Mr. ORTIZ, Mr. TAYLOR of North Carolina, Mr. TAYLOR of Mississippi, Mr. ENSIGN, Mrs. CUBIN, Ms. ROS-LEHTINEN, Mr. BOEHNER, and Mr. THORNBERRY.
H.R. 1856: Mr. FROST, Mr. KLECZKA, Ms. BROWN of Florida, Mr. JEFFERSON, Mr. LANTOS, Mrs. THURMAN, Mr. WAXMAN, Mr. FRANK of Massachusetts, Mr. FOGLIETTA, Mr. PETE GEREN of Texas, Mr. PETERSON of Minnesota, Mr. STARK, Mr. MARTINEZ, Mr. YATES, Mr. NADLER, Mr. ENGEL, Mr. FLAKE, Ms. WOOLSEY, Mr. CLEMENT, Mr. MASCARA, Ms. KAPTUR, Mr. PAYNE of New Jersey, Mr. LEWIS of Georgia, Mr. LATHAM, Mr. EHLERS, and Mr. CLINGER.
H.R. 1889: Mr. WALSH, Mr. OBERSTAR, Ms. RIVERS, Mr. HAYES, Mr. ACKERMAN, Mr. MOAKLEY, Mr. WAXMAN, Mr. SCHUMER, and Mr. FROST.
H.R. 1915: Mr. MCKEON, Mr. BARTON of Texas, Mr. HUTCHINSON, Mr. THORNBERRY, Mr. LAUGHLIN, Mr. TRAFICANT, Mr. SENSENBRENNER, and Mr. KASICH.
H.R. 1952: Ms. WATERS, Mr. GREENWOOD, and Mr. FAZIO of California.
H.R. 1955: Mr. PALLONE, Mr. YATES, Mrs. LOWEY, and Mr. MURTHA.
H.J. Res. 89: Mr. CRAMER, Mrs. ROUKEMA, Mr. FROST, Mr. BILIRAKIS, Mr. UPTON, and Mr. DOYLE.
H.J. Res. 96: Mr. HALL of Ohio, Ms. MCKINNEY, Mrs. SCHROEDER, Mr. FUNDERBURK, Mrs. SEASTRAND, Mr. PALLONE, Mr. ABERCROMBIE, Mr. YATES, Mr. DELLUMS, Ms. ESHOO, Mr. STEARNS, Mr. LIPINSKI, Mr. LEWIS of Georgia, Mr. ROSE, Mr. BURTON of Indiana, and Mr. STOCKMAN.
H. Con. Res. 78: Mr. FILNER, Mr. BORSKI, Mr. LEWIS of Georgia, Mr. DELLUMS, Mr. RUSH, Mr. FROST, Ms. RIVERS, and Mr. SANDERS.
H. Res. 39: Mr. YATES, Mr. GENE GREEN of Texas, Mr. FILNER, Mr. UNDERWOOD, Mr. RUSH, and Mr. FRAZER.
H. Res. 132: Mr. DOGGETT, Mr. GENE GREEN of Texas, Mr. HAMILTON, Mrs. LOWEY, Ms. MCKINNEY, Mr. MEEHAN, Ms. RIVERS, Mr. ROMERO-BARCELO, Ms. SLAUGHTER, Mr. THOMPSON, Mr. TORRES, Mr. UNDERWOOD, Ms. VELAZQUEZ, and Mr. YATES.
H. Res. 150: Mr. HILLIARD and Mr. STUPAK.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1289: Ms. ESHOO.
H.R. 1883: Mr. WHITE.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1868

OFFERED BY: MR. FRANK OF MASSACHUSETTS

AMENDMENT NO. 86: Page 78, after line 6, insert the following new section:

LIMITATION ON FUNDS FOR INDONESIA

SEC. 564. None of the funds made available in this Act may be used for assistance for Indonesia.

United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE *104th* CONGRESS, FIRST SESSION

Vol. 141 WASHINGTON, FRIDAY, JUNE 30, 1995 *No. 109*

Senate

(Legislative day of Monday, June 19, 1995)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. The Chaplain will now deliver the opening prayer.

PRAYER

Father of liberty, as we begin this Fourth of July weekend and recess time, we praise You for our Founding Fathers who received from You the strength and courage to claim their inalienable right to be free and drafted the Declaration of Independence. You gave them victory in a just revolution and placed in their hearts the American dream. We join our voices with these gallant heroes of liberty in confessing total dependence on You. We know that You are the Author of the glorious vision that gave birth to our beloved Nation.

Through the years we have learned that freedom is not free. It must be cherished, defended, and fought for at high cost. We thank You for the brave men and women who have given their lives in the cause of freedom and justice. Today, help us to be willing to pay the cost of freedom as we lead our Nation. We give You our minds, hearts, and energy as we grapple with the issues of moving this Nation forward in keeping with Your vision. As the fireworks explode in the sky in our Fourth of July celebrations, implode in our hearts a new burst of patriotism and commitment. God, empower the women and men of this Senate and bless America. In Your holy name. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. COVERDELL. Mr. President, this morning the leader time has been reserved, and there will be a period for morning business until the hour of 10:30 a.m.

The rescissions bill is expected to arrive from the House of Representatives today, and Senator DOLE, our majority leader, has indicated he would like to complete action on that bill today. Rollcall votes are therefore possible during today's session of the Senate.

Mr. President, I yield the floor.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER (Mr. COVERDELL). The distinguished Senator from Minnesota is recognized.

FREEDOM OR SECURITY?

Mr. GRAMS. Mr. President, this coming Tuesday, the American people will celebrate the Fourth of July. It is a day for parties and parades, fireworks, and family picnics.

It is a day for remembering the bedrock of freedom on which this country was built, and how freedom still binds us together.

So it is ironic that 1 day later, July 5, we will take action right here on Capitol Hill to clamp down on the very freedoms we embrace on Independence Day.

It began on April 19, in Oklahoma City.

The reverberations of the bombing at the Alfred P. Murrah Federal Building were felt across America, but echoed loudly in Washington, DC, home to more Federal buildings—and Federal employees—than any other city in the Nation.

And almost immediately, a siege mentality took hold.

Here at the Capitol, police took extraordinary steps to protect against the possibility of a terrorist attack.

They beefed up patrols around the building, stopped cars and checked trunks, eliminated parking in some areas, increased the sensitivity on the entryway metal detectors, and kept the public away from ground floor windows with yards of yellow tape labeled ''Police Line—Do Not Cross.''

Soon after, the U.S. Treasury Department ordered Pennsylvania Avenue closed to cars and trucks in front of the White House.

For the first time in the 195-year history of the Executive Mansion, the people were no longer allowed to drive past the people's house.

And now, 1 month after Pennsylvania Avenue was shut down to traffic, police say more drastic measures are needed. A plan will go into effect here on Wednesday, July 5, that will even further limit the people's access to Capitol Hill and those of us who work here on the people's behalf.

The Senate Sergeant-at-Arms and the U.S. Capitol Police say that traffic will be restricted or eliminated altogether around the three Senate office buildings.

Some parking will be eliminated, too.

Streets will be closed with the concrete barriers that have become all-too-common in this city. It will be more tire shredders, not ''welcome'' signs, that will greet visitors.

The Capitol Police say they are trying to strike a balance between free access, and the security of the Congress and its visitors.

They say the changes I have outlined mean only ''minor traffic disruptions'' and will have ''little impact on the community.''

Mr. President, I have great admiration and respect for the officers and police administrators who work every day—sometimes putting their own lives on the line—to make this a safe and secure place to work and visit.

They have and deserve our thanks. But with all due respect to them, there is much more at stake in this decision

than simply its physical impact on the community.

Whenever we make such bold moves to further separate ourselves from the very people who sent us here and pay our weekly salaries, it has a tremendous impact on the national psyche as well.

What it comes down to, Mr. President, is the question of freedom versus security. Is ours a government that can operate openly, in the name of freedom, and still shut itself off from the people, in the name of security?

Are we willing to swap one for the other?

If we are, then perhaps we should not stop with a few tire shredders and a couple of closed streets.

Why do not we just build a fence around the Capitol? That is what the Capitol Hill Police proposed in 1985 in an internal report, at a cost then of $2.8 million.

Or better yet, if we really want to make a loud, public statement that ''you cannot mess with the Federal Government,'' we will dig a massive trench around the Capitol.

We will fill the moat with water and maybe a pack of alligators, and build a single, drawbridge entrance, where we will station guards armed with spears.

And then we will dare the public to visit.

We will be secure in our bunker, Mr. President, but for that security, we will be trading away freedom, and we cannot make horse trades with the very principles upon which this Nation was founded.

Mr. President, we should also consider the impact of our actions on the taxpayers.

The recent security precautions taken at the White House will cost the taxpayers $200,000 for new traffic signals, signs, and pavement markings.

The new security arrangements here at the Capitol will come with a price tag to the taxpayers as well, although the costs will not be measured solely by dollars.

Where do we stop?

There are 8,100 Federal buildings in the United States—do we turn each and every one of them into a fortress?

The sad truth is that we can not protect Federal workers by sealing them off from the world.

If we tell terrorists that we are not going to let them park car bombs made of fertilizer and fuel oil next to our Federal buildings anymore, they will find another way.

And we may just be goading on a desperate kook who wants to prove they can not be stopped by another layer of security.

The public does not understand what we are doing.

They have vital business in Federal buildings, or they come here as tourists, expecting to be welcomed.

But when they see the police, and all they yellow tape, and the signs that say ''Do Not Enter,'' they wonder what kind of message we are trying to get across.

I have heard their comments when they look down an empty stretch of Pennsylvania Avenue that used to be open to cars. I know what they whisper when they visit and walk through the metal detectors.

''It is a shame,'' they are saying.

And they do not like it. We have gone too far.

Washington should be a place where visitors feel secure, but by turning it into a fortress, we are sacrificing freedom for security, and making a city of such beauty and such history something dirty.

We can put in more concrete barriers and try to camouflage them with flowers, but in the words of one newspaper columnist, it is like putting lipstick on a goat. It is ugly, and fear is ugly.

Democracy should be about building bridges, not building walls. In Washington, we have become too adept at building walls. And every time a wall goes up, we knock freedom down another notch.

Let us seriously consider what we're doing, and what security we're willing to give up in order to live in a democracy.

If in the end it comes down to a question of security or freedom, this Senator will always choose freedom, Mr. President. And I believe the American people will, too.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m. with Senators permitted to speak therein for not to exceed 5 minutes each. Under the previous order, the Senator from Idaho [Mr. CRAIG] is recognized to speak for up to 15 minutes; under the previous order, the Senator from New Hampshire [Mr. SMITH] is recognized to speak for up to 15 minutes; under the previous order, the Senator from Arkansas [Mr. PRYOR] is recognized to speak for up to 10 minutes. The Senator from Washington may proceed.

Mr. GORTON. Mr. President, I am informed that Senator CRAIG is not going to utilize his time. My name was not mentioned.

I ask unanimous consent to speak for not more than 5 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE SECOND RESCISSIONS BILL

Mr. GORTON. Mr. President, at 10 o'clock, I understand, the Senate will take up a second rescissions bill, that bill having passed the House of Representatives last night. This is good news for the people of the United States, following on the even better news of the passage of the budget resolution yesterday, a budget resolution which will lead to a balanced budget in the year 2002. That path will be made markedly easier by the passage and hoped-for signing of a rescissions bill designed to save somewhere between $12 and $15 billion of spending already authorized and appropriated. In fact, next year's appropriations would be extremely difficult without the passage of this rescissions bill.

Regrettably, it will allow somewhat more spending, at the insistence of the President, than was the case with the earlier proposal. But even so, it will represent a major step forward, a significant commitment on the part of this Congress to a leaner, tougher, more efficient and more effective Federal Government with a reduction in spending which, in some cases, would simply be wasteful—in other cases, which might have been significant, but not of a high enough priority to borrow in order to do it and then to send the bill to our children and to our grandchildren.

One of the last matters, perhaps the last matter settled in connection with this rescissions bill, was a proposal of mine and the distinguished Senator from Oregon [Mr. HATFIELD] with respect to salvage timber and to certain other rules related to timber harvesting in the Pacific Northwest—the salvage provisions applying all across the United States.

Negotiations with the administration on this subject were intensive and were lengthy. The net result, from the perspective of this Senator, is that the changes in the earlier bill are only slightly more than superficial. Both the provisions in the earlier bill and those in this bill, I wish to emphasize, were aimed solely at permitting the President and the administration to do what they claim they want to do anyway, to keep their own commitments. Neither in the field of salvage timber nor in connection with so-called option 9 in the Pacific Northwest, do I believe this administration proposes a balance between its environmental concerns and the very real, human needs of the people who live in timber communities and supply a vitally important commodity for the people of the United States.

I wish to emphasize this. I do not believe the administration's plans are appropriately balanced or that they give due weight to human concerns. But they are something. They are more than people in timber country across the United States have today. This amendment is simply designed to remove the frivolous and endless litigation which seeks to obstruct even the

modest relief which the administration proposes.

So the President is not required to do anything that he does not want to do. He is enabled to do what he does wish to do, or says that he wishes to do. He is enabled to keep his own commitments, and the people of the United States, and especially those in timber country, can then determine whether or not those commitments are indeed adequate; are, indeed, balanced.

I trust that later on this year we will be dealing with legislation that will create that balance. But in the meantime, this significant though modest relief will be available. For that I am most grateful.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SMITH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

A TRIBUTE TO NILS M. SANDER

Mr. SMITH. Mr. President, I rise today to pay tribute to a long time friend, Nils M. Sander, of Kingston, NH.

Nils was a deeply religious man, a devoted husband and father and a true American patriot. Although he would not immediately be recognized by millions of Americans, he embodied the essence of the American people and their spirit.

Nils Sander died on March 17, 1995, but it is his life that I want to share with my colleagues today.

Nils was born in 1917 in Stockholm, Sweden, the second son of John and Maria Sander. It was soon after Nils' birth that the Sander family began immigrating to America. Initially it was several aunts and uncles and then as word spread among the family that in America the jobs were plentiful and opportunity was boundless, Nils' parents, John and Maria, brought their whole family.

Nils, his brother, Arnie, a pregnant mother and a hopeful father disembarked from the boat at Ellis Island. Nils' sister, Nana, was later born in America and it was her birth as a U.S. citizen that enabled her to sponsor the rest of the family into citizenship. Nils' father, John, the industrious and hardworking Swede, found work as a machinist and was soon able to buy his family a home.

Nils grew up in a generation that knew the value of a strong work ethic. He saw the Depression. He saw it devastate the lives of his neighbors, family and friends. Nils' brother left home so there would be one less mouth to feed. His mother pawned her wedding ring to feed her family. Nils learned the value of saving and he learned the machinist trade from his father. He learned to love America.

In 1942, Nils married his high school sweetheart, Ruth Seaburg. While his wife was expecting their first child, World War II was raging. Nils joined the Navy because he knew that freedom was not free. Nils put his life on the line to preserve that freedom not only for his generation but for his children and grandchildren for generations to come.

He served as a machinist mate on board the U.S.S. *Doyle C. Barnes* in the Philippines and New Guinea. It was in 1944 that Nils returned from the war. He came home to a son who was ready a year old. Nils found work at the Watertown Arsenal and then later at MIT as a tool and die maker.

In 1947, Nils moved his family to Kingston, NH, and a second son was born. He rode his bike 2 miles to the train station in the next town in order to make his way to and from Haverhill, MA, where he taught at a trade school. The family was soon able to buy a car and life became easier.

The agreement at Yalta removed forever any lingering Socialist ideas that had been brought from Sweden with his parents. No man or nation had the right to determine the sovereignty of another nation. Individual freedom with responsibility began to root itself deep into Nils' beliefs. Those beliefs formed the basis for his conservative philosophy.

Nils' family remembers very clearly the lengthy conversations around the dinner table had about communism, his compassion for people imprisoned within the Communist state, and his determination that freedom must prevail against those tyrannies.

For Nils, there was never a problem with defining right or wrong. His faith in God and knowledge of biblical lessons were all he needed to direct his life and to teach his family, his students, and all who came to know him.

Nils was a founder of the Kingston Community House, a volunteer organization formed to help those in need in the community. They provided food and clothes to those who were without. They provided Christmas gifts for needy children, and they ran a weekly meal program. The success of the Kingston Community House brought Nancy Reagan to Kingston because of her interest in voluntarism.

Nils became active in the New Hampshire Republican Party and campaigned tirelessly for those conservative candidates who shared his ideals. Those he worked for included Barry Goldwater, Richard Nixon, Ronald Reagan, Gordon Humphrey, Mel Thomson, and BOB SMITH. Nils was not only our supporter—he was our friend.

Nils was there for me in the beginning when it was tough going. He did not have to help me but he did, and he never asked for anything in return. Not one thing did he ever ask in return.

Nils helped to craft the conservative platform which now guides the party. He was one of the quiet people who never asked for anything but good government—and the less the better. He believed with all his heart that government should do only what people cannot do for themselves.

Nils never ran for public office. So you would not know him. Instead he preferred to serve from the sidelines. He was always there when a void needed to be filled which could further his conservative beliefs in the preciousness of freedom, the sanctity of human life, and the importance of family.

Nils and his wife, Ruth and his daughter, Asta, and the rest of the family, were quiet but active Americans who deserve a great deal of credit for the revolution which took place in last November's election. They never sat back and let the liberal agenda destroy the fragile freedom we enjoy. They went to work every day. They taught their families right from wrong and they taught them to love God and to love America and to take their responsibilities seriously, to save for the future, and not to be a burden to society.

As I indicated, Nils passed away a short time ago. He suffered from Alzheimers, a cruel disease that has also stricken one of his beloved political leaders, Ronald Reagan. Because he was in the final stages of Alzheimers, Nils was unable to witness the November elections and enjoy the fruits of his labors.

Nils—I know that you are watching now and smiling as you see your old friend in the majority in the U.S. Senate.

I am a U.S. Senator today because of Nils Sander. Nils believed in me at a time when it was tough. And I believed in him. I will miss my friend, and I intend to honor his memory by continuing to fight for the conservative principles he espoused.

Yes, Nils Sander, one man can make a difference * * * and you did.

Thank you, Mr. President.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. PRYOR and Mr. HATCH pertaining to the introduction of S. 1006 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

REGULATORY PROCEDURES REFORM ACT

Mr. GLENN. Mr. President, yesterday, I, along with a bipartisan group of Senators, introduced S. 1001, the Regulatory Procedures Reform Act of 1995.

Upon its introduction, it was my intention to have the bill printed in the RECORD so that all Members with an interest in this important issue—the

issue of regulatory reform—would have the opportunity to review the provisions of the measure. Unfortunately, the measure was not printed.

Therefore, I now ask unanimous consent that the text of S. 1001 and a comparative be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1001

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Regulatory Procedures Reform Act of 1995''.

SEC. 2. DEFINITIONS.

Section 551 of title 5, United States Code, is amended—

(1) in paragraph (13), by striking out ''; and'' and inserting in lieu thereof a semicolon;

(2) in paragraph (14), by striking out the period and inserting in lieu thereof ''; and''; and

(3) by adding at the end thereof the following new paragraph:

''(15) 'Director' means the Director of the Office of Management and Budget.''.

SEC. 3. ANALYSIS OF AGENCY RULES.

(a) IN GENERAL.—Chapter 6 of title 5, United States Code, is amended by adding at the end the following:

''SUBCHAPTER II—ANALYSIS OF AGENCY RULES

''§ 621. Definitions

''For purposes of this subchapter the definitions under section 551 shall apply and—

''(1) the term 'benefit' means the reasonably identifiable significant favorable effects, including social, environmental, and economic benefits, that are expected to result directly or indirectly from implementation of a rule or an alternative to a rule;

''(2) the term 'cost' means the reasonably identifiable significant adverse effects, including social, environmental, and economic costs that are expected to result directly or indirectly from implementation of, or compliance with, a rule or an alternative to a rule;

''(3) the term 'cost-benefit analysis' means an evaluation of the costs and benefits of a rule, quantified to the extent feasible and appropriate and otherwise qualitatively described, that is prepared in accordance with the requirements of this subchapter at the level of detail appropriate and practicable for reasoned decisionmaking on the matter involved, taking into consideration the significance and complexity of the decision and any need for expedition;

''(4)(A) the term 'major rule' means a rule or a group of closely related rules that the agency proposing the rule, the Director, or a designee of the President reasonably determines is likely to have a gross annual effect on the economy of $100,000,000 or more in reasonably quantifiable direct and indirect costs; and

''(B) the term 'major rule' shall not include—

''(i) a rule that involves the internal revenue laws of the United States;

''(ii) a rule or agency action that authorizes the introduction into, or removal from, commerce, or recognizes the marketable status, of a product; or

''(iii) a rule exempt from notice and public comment procedure under section 553 of this title;

''(5) the term 'market-based mechanism' means a regulatory program that—

''(A) imposes legal accountability for the achievement of an explicit regulatory objective, including the reduction of environmental pollutants or of risks to human health, safety, or the environment, on each regulated person;

''(B) affords maximum flexibility to each regulated person in complying with mandatory regulatory objectives, and such flexibility shall, where feasible and appropriate, include the opportunity to transfer to, or receive from, other persons, including for cash or other legal consideration, increments of compliance responsibility established by the program; and

''(C) permits regulated persons to respond at their own discretion in an automatic manner, consistent with subparagraph (B), to changes in general economic conditions and in economic circumstances directly pertinent to the regulatory program without affecting the achievement of the program's explicit regulatory mandates under subparagraph (A);

''(6) the term 'performance standard' means a requirement that imposes legal accountability for the achievement of an explicit regulatory objective, such as the reduction of environmental pollutants or of risks to human health, safety, or the environment, on each regulated person;

''(7) the term 'risk assessment' has the same meaning as such term is defined under section 631(5); and

''(8) the term 'rule' has the same meaning as in section 551(4) of this title, and shall not include—

''(A) a rule of particular applicability that approves or prescribes for the future rates, wages, prices, services, corporate or financial structures, reorganizations, mergers, acquisitions, accounting practices, or disclosures bearing on any of the foregoing;

''(B) a rule relating to monetary policy proposed or promulgated by the Board of Governors of the Federal Reserve System or by the Federal Open Market Committee;

''(C) a rule relating to the safety or soundness of federally insured depository institutions or any affiliate of such an institution (as defined in section 2(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(k)); credit unions; the Federal Home Loan Banks; government-sponsored housing enterprises; a Farm Credit System Institution; foreign banks, and their branches, agencies, commercial lending companies or representative offices that operate in the United States and any affiliate of such foreign banks (as those terms are defined in the International Banking Act of 1978 (12 U.S.C. 3101)); or a rule relating to the payments system or the protection of deposit insurance funds or Farm Credit Insurance Fund; or

''(D) a rule issued by the Federal Election Commission or a rule issued by the Federal Communications Commission pursuant to sections 312(a)(7) and 315 of the Communications Act of 1934 (47 U.S.C. 312(a)(7) and 315).

''§ 622. Rulemaking cost-benefit analysis

''(a) Before publishing notice of a proposed rulemaking for any rule (or, in the case of a notice of a proposed rulemaking that has been published on or before the effective date of this subchapter, no later than 30 days after such date), each agency shall determine whether the rule is or is not a major rule. For the purpose of any such determination, a group of closely related rules shall be considered as one rule.

''(b)(1) If an agency has determined that a rule is not a major rule, the Director or a designee of the President may, as appropriate, determine that the rule is a major rule no later than 30 days after the publication of the notice of proposed rulemaking for the rule (or, in the case of a notice of proposed rulemaking that has been published on or before the effective date of this subchapter, no later than 60 days after such date).

''(2) Such determination shall be published in the Federal Register, together with a succinct statement of the basis for the determination.

''(c)(1)(A) When the agency publishes a notice of proposed rulemaking for a major rule, the agency shall issue and place in the rulemaking file an initial cost-benefit analysis, and shall include a summary of such analysis in the notice of proposed rulemaking.

''(B)(i) When the Director or a designee of the President has published a determination that a rule is a major rule after the publication of the notice of proposed rulemaking for the rule, the agency shall promptly issue and place in the rulemaking file an initial cost-benefit analysis for the rule and shall publish in the Federal Register a summary of such analysis.

''(ii) Following the issuance of an initial cost-benefit analysis under clause (i), the agency shall give interested persons an opportunity to comment pursuant to section 553 in the same manner as if the draft cost-benefit analysis had been issued with the notice of proposed rulemaking.

''(2) Each initial cost-benefit analysis shall contain—

''(A) an analysis of the benefits of the proposed rule, including any benefits that cannot be quantified, and an explanation of how the agency anticipates that such benefits will be achieved by the proposed rule, including a description of the persons or classes of persons likely to receive such benefits;

''(B) an analysis of the costs of the proposed rule, including any costs that cannot be quantified, and an explanation of how the agency anticipates that such costs will result from the proposed rule, including a description of the persons or classes of persons likely to bear such costs;

''(C) an identification (including an analysis of costs and benefits) of an appropriate number of reasonable alternatives allowed under the statute granting the rulemaking authority for achieving the identified benefits of the proposed rule, including alternatives that—

''(i) require no government action;

''(ii) will accommodate differences among geographic regions and among persons with differing levels of resources with which to comply; and

''(iii) employ voluntary programs, performance standards, or market-based mechanisms that permit greater flexibility in achieving the identified benefits of the proposed rule and that comply with the requirements of subparagraph (D);

''(D) an assessment of the feasibility of establishing a regulatory program that operates through the application of market-based mechanisms;

''(E) an explanation of the extent to which the proposed rule—

''(i) will accommodate differences among geographic regions and among persons with differing levels of resources with which to comply; and

''(ii) employs voluntary programs, performance standards, or market-based mechanisms that permit greater flexibility in achieving the identified benefits of the proposed rule;

''(F) a description of the quality, reliability, and relevance of scientific or economic evaluations or information in accordance with the cost-benefit analysis and risk assessment requirements of this chapter;

''(G) if not expressly or implicitly inconsistent with the statute under which the agency is proposing the rule, an explanation of the extent to which the identified benefits

of the proposed rule justify the identified costs of the proposed rule, and an explanation of how the proposed rule is likely to substantially achieve the rulemaking objectives in a more cost-effective manner than the alternatives to the proposed rule, including alternatives identified in accordance with subparagraph (C); and

''(H) if a major rule subject to subchapter III addresses risks to human health, safety, or the environment—

''(i) a risk assessment in accordance with this chapter; and

''(ii) for each such proposed or final rule, an assessment of incremental risk reduction or other benefits associated with each significant regulatory alternative considered by the agency in connection with the rule or proposed rule.

''(d)(1) When the agency publishes a final major rule, the agency shall also issue and place in the rulemaking file a final cost-benefit analysis, and shall include a summary of the analysis in the statement of basis and purpose.

''(2) Each final cost-benefit analysis shall contain—

''(A) a description and comparison of the benefits and costs of the rule and of the reasonable alternatives to the rule described in the rulemaking, including the market-based mechanisms identified under subsection (c)(2)(C)(iii); and

''(B) if not expressly or implicitly inconsistent with the statute under which the agency is acting, a reasonable determination, based upon the rulemaking file considered as a whole, whether—

''(i) the benefits of the rule justify the costs of the rule; and

''(ii) the rule will achieve the rulemaking objectives in a more cost-effective manner than the alternatives described in the rulemaking, including the market-based mechanisms identified under subsection (c)(2)(C)(iii).

''(e)(1) The analysis of the benefits and costs of a proposed and a final rule required under this section shall include, to the extent feasible, a quantification or numerical estimate of the quantifiable benefits and costs. Such quantification or numerical estimate shall be made in the most appropriate units of measurement, using comparable assumptions, including time periods, shall specify the ranges of predictions, and shall explain the margins of error involved in the quantification methods and in the estimates used. An agency shall describe the nature and extent of the nonquantifiable benefits and costs of a final rule pursuant to this section in as precise and succinct a manner as possible. An agency shall not be required to make such evaluation primarily on a mathematical or numerical basis.

''(2)(A) In evaluating and comparing costs and benefits and in evaluating the risk assessment information developed under subchapter III, the agency shall not rely on cost, benefit, or risk assessment information that is not accompanied by data, analysis, or other supporting materials that would enable the agency and other persons interested in the rulemaking to assess the accuracy, reliability, and uncertainty factors applicable to such information.

''(B) The agency evaluations of the relationships of the benefits of a proposed and final rule to its costs shall be clearly articulated in accordance with this section.

''(f) As part of the promulgation of each major rule that addresses risks to human health, safety, or the environment, the head of the agency or the President shall make a determination that—

''(1) the risk assessment and the analysis under subsection (c)(2)(H) are based on a scientific evaluation of the risk addressed by the major rule and that the conclusions of such evaluation are supported by the available information; and

''(2) the regulatory alternative chosen will reduce risk in a cost-effective and, to the extent feasible, flexible manner, taking into consideration any of the alternatives identified under subsection (c)(2) (C) and (D).

''(g) The preparation of the initial or final cost-benefit analysis required by this section shall only be performed under the direction of an officer or employee of the agency. The preceding sentence shall not preclude a person outside the agency from gathering data or information to be used by the agency in preparing any such cost-benefit analysis or from providing an explanation sufficient to permit the agency to analyze such data or information. If any such data or information is gathered or explained by a person outside the agency, the agency shall specifically identify in the initial or final cost-benefit analysis the data or information gathered or explained and the person who gathered or explained it, and shall describe the arrangement by which the information was procured by the agency, including the total amount of funds expended for such procurement.

''(h) The requirements of this subchapter shall not alter the criteria for rulemaking otherwise applicable under other statutes.

''§ 623. Judicial review

''(a) Compliance or noncompliance by an agency with the provisions of this subchapter and subchapter III shall not be subject to judicial review except in connection with review of a final agency rule and according to the provisions of this section.

''(b) Any determination by a designee of the President or the Director that a rule is, or is not, a major rule shall not be subject to judicial review in any manner.

''(c) The determination by an agency that a rule is, or is not, a major rule shall be set aside by a reviewing court only upon a clear and convincing showing that the determination is erroneous in light of the information available to the agency at the time the agency made the determination.

''(d) If the cost-benefit analysis or risk assessment required under this chapter has been wholly omitted for any major rule, a court shall vacate the rule and remand the case for further consideration. If an analysis or assessment has been performed, the court shall not review to determine whether the analysis or assessment conformed to the particular requirements of this chapter.

''(e) Any cost-benefit analysis or risk assessment prepared under this chapter shall not be subject to judicial consideration separate or apart from review of the agency action to which it relates. When an action for judicial review of an agency action is instituted, any regulatory analysis for such agency action shall constitute part of the whole administrative record of agency action for the purpose of judicial review of the agency action, and shall, to the extent relevant, be considered by a court in determining the legality of the agency action.

''§ 624. Deadlines for rulemaking

''(a) All deadlines in statutes that require agencies to propose or promulgate any rule subject to section 622 or subchapter III during the 2-year period beginning on the effective date of this section shall be suspended until the earlier of—

''(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

''(2) the date occurring 6 months after the date of the applicable deadline.

''(b) All deadlines imposed by any court of the United States that would require an agency to propose or promulgate a rule subject to section 622 or subchapter III during the 2-year period beginning on the effective date of this section shall be suspended until the earlier of—

''(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

''(2) the date occurring 6 months after the date of the applicable deadline.

''(c) In any case in which the failure to promulgate a rule by a deadline occurring during the 2-year period beginning on the effective date of this section would create an obligation to regulate through individual adjudications, the deadline shall be suspended until the earlier of—

''(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

''(2) the date occurring 6 months after the date of the applicable deadline.

''§ 625. Agency review of rules

''(a)(1)(A) No later than 9 months after the effective date of this section, each agency shall prepare and publish in the Federal Register a proposed schedule for the review, in accordance with this section, of—

''(i) each rule of the agency that is in effect on such effective date and which, if adopted on such effective date, would be a major rule; and

''(ii) each rule of the agency in effect on the effective date of this section (in addition to the rules described in clause (i)) that the agency has selected for review.

''(B) Each proposed schedule required under subparagraph (A) shall be developed in consultation with—

''(i) the Administrator of the Office of Information and Regulatory Affairs; and

''(ii) the classes of persons affected by the rules, including members from the regulated industries, small businesses, State and local governments, and organizations representing the interested public.

''(C) Each proposed schedule required under subparagraph (A) shall establish priorities for the review of rules that, in the joint determination of the Administrator of the Office of Information and Regulatory Affairs and the agency, most likely can be amended or eliminated to—

''(i) provide the same or greater benefits at substantially lower costs;

''(ii) achieve substantially greater benefits at the same or lower costs; or

''(iii) replace command-and-control regulatory requirements with market mechanisms or performance standards that achieve substantially equivalent benefits at lower costs or with greater flexibility.

''(D) Each proposed schedule required by subparagraph (A) shall include—

''(i) a brief explanation of the reasons the agency considers each rule on the schedule to be a major rule, or the reasons why the agency selected the rule for review;

''(ii) a date set by the agency, in accordance with subsection (b), for the completion of the review of each such rule; and

''(iii) a statement that the agency requests comments from the public on the proposed schedule.

''(E) The agency shall set a date to initiate review of each rule on the schedule in a manner that will ensure the simultaneous review of related items and that will achieve a reasonable distribution of reviews over the period of time covered by the schedule.

''(2) No later than 90 days before publishing in the Federal Register the proposed schedule required under paragraph (1), each agency shall make the proposed schedule available to the Director or a designee of the President. The President or that officer may select for review in accordance with this section any additional rule.

''(3) No later than 1 year after the effective date of this section, each agency shall publish in the Federal Register a final schedule for the review of the rules referred to in

paragraphs (1) and (2). Each agency shall publish with the final schedule the response of the agency to comments received concerning the proposed schedule.

''(b)(1) Except as explicitly provided otherwise by statute, the agency shall, pursuant to subsections (c) through (e), review—

''(A) each rule on the schedule promulgated pursuant to subsection (a);

''(B) each major rule promulgated, amended, or otherwise continued by an agency after the effective date of this section; and

''(C) each rule promulgated after the effective date of this section that the President or the officer designated by the President selects for review pursuant to subsection (a)(2).

''(2) Except as provided pursuant to subsection (f), the review of a rule required by this section shall be completed no later than the later of—

''(A) 10 years after the effective date of this section; or

''(B) 10 years after the date on which the rule is—

''(i) promulgated; or

''(ii) amended or continued under this section.

''(c) An agency shall publish in the Federal Register a notice of its proposed action under this section with respect to a rule being reviewed. The notice shall include—

''(1) an identification of the specific statutory authority under which the rule was promulgated and an explanation of whether the agency's interpretation of the statute is expressly required by the current text of that statute or, if not, whether it is within the range of permissible interpretations of the statute;

''(2) an analysis of the benefits and costs of the rule during the period in which it has been in effect;

''(3) an explanation of the proposed agency action with respect to the rule, including action to repeal or amend the rule to resolve inconsistencies or conflicts with any other obligation or requirement established by any Federal statute, rule, or other agency statement, interpretation, or action that has the force of law; and

''(4) a statement that the agency seeks proposals from the public for modifications or alternatives to the rule which may accomplish the objectives of the rule in a more effective or less burdensome manner.

''(d) If an agency proposes to repeal or amend a rule under review pursuant to this section, the agency shall, after issuing the notice required by subsection (c), comply with the provisions of this chapter, chapter 5, and any other applicable law. The requirements of such provisions and related requirements shall apply to the same extent and in the same manner as in the case of a proposed agency action to repeal or amend a rule that is not taken pursuant to the review required by this section.

''(e) If an agency proposes to continue without amendment a rule under review pursuant to this section, the agency shall—

''(1) give interested persons no less than 60 days after the publication of the notice required by subsection (c) to comment on the proposed continuation; and

''(2) publish in the Federal Register notice of the continuation of such rule.

''(f) Any agency, which for good cause finds that compliance with this section with respect to a particular rule during the period provided in subsection (b) of this section is contrary to an important public interest may request the President, or the officer designated by the President pursuant to subsection (a)(2), to establish a period longer than 10 years for the completion of the review of such rule. The President or that officer may extend the period for review of a rule to a total period of no more than 15 years. Such extension shall be published in the Federal Register with an explanation of the reasons therefor.

''(g) If the agency fails to comply with the requirements of subsection (b)(2), the agency shall immediately commence a rulemaking action pursuant to section 553 of this title to repeal the rule.

''(h) Nothing in this section shall relieve any agency from its obligation to respond to a petition to issue, amend, or repeal a rule, for an interpretation regarding the meaning of a rule, or for a variance or exemption from the terms of a rule, submitted pursuant to any other provision of law.

''§ 626. Public participation and accountability

''In order to maximize accountability for, and public participation in, the development and review of regulatory actions each agency shall, consistent with chapter 5 and other applicable law, provide the public with opportunities for meaningful participation in the development of regulatory actions, including—

''(1) seeking the involvement, where practicable and appropriate, of those who are intended to benefit from and those who are expected to be burdened by any regulatory action;

''(2) providing in any proposed or final rulemaking notice published in the Federal Register—

''(A) a certification of compliance with the requirements of this chapter, or an explanation why such certification cannot be made;

''(B) a summary of any regulatory analysis required under this chapter, or under any other legal requirement, and notice of the availability of the regulatory analysis;

''(C) a certification that the rule will produce benefits that will justify the cost to the Government and to the public of implementation of, and compliance with, the rule, or an explanation why such certification cannot be made; and

''(D) a summary of the results of any regulatory review and the agency's response to such review, including an explanation of any significant changes made to such regulatory action as a consequence of regulatory review;

''(3) identifying, upon request, a regulatory action and the date upon which such action was submitted to the designated officer to whom authority was delegated under section 644 for review;

''(4) disclosure to the public, consistent with section 633(3), of any information created or collected in performing a regulatory analysis required under this chapter, or under any other legal requirement; and

''(5) placing in the appropriate rulemaking record all written communications received from the Director, other designated officer, or other individual or entity relating to regulatory review.

''SUBCHAPTER III—RISK ASSESSMENTS

''§ 631. Definitions

''For purposes of this subchapter, the definitions under sections 551 and 621 shall apply, and—

''(1) the term 'covered agency' means each agency required to comply with this subchapter, as provided in section 632;

''(2) the term 'emergency' means an imminent or substantial endangerment to public health, safety, or the environment if no action is taken;

''(3) the term 'exposure assessment' means the scientific determination of the intensity, frequency, and duration of exposures to the hazard in question;

''(4) the term 'hazard assessment' means the scientific determination of whether a hazard can cause an increased incidence of one or more significant adverse effects, and a scientific evaluation of the relationship between the degree of exposure to a perceived cause of an adverse effect and the incidence and severity of the effect;

''(5) the term 'risk assessment' means the systematic process of organizing and analyzing scientific knowledge and information on potential hazards, including as appropriate for the specific risk involved, hazard assessment, exposure assessment, and risk characterization;

''(6) the term 'risk characterization' means the integration and organization of hazard and exposure assessment to estimate the potential for specific harm to an exposed individual population or natural resource including, to the extent feasible, a characterization of the distribution of risk as well as an analysis of uncertainties, variabilities, conflicting information, and inferences and assumptions in the assessment;

''(7) the term 'screening analysis' means an analysis using simple conservative postulates to arrive at an estimate of upper and lower bounds as appropriate, that permits the manager to eliminate risks from further consideration and analysis, or to help establish priorities for agency action; and

''(8) the term 'substitution risk' means an increased risk to human health, safety, or the environment reasonably likely to result from a regulatory option.

''§ 632. Applicability

''(a) Except as provided in subsection (c), this subchapter shall apply to all risk assessments and risk characterizations prepared in connection with a major rule addressing health, safety, and environmental risks by—

''(1) the Secretary of Defense, for major rules relating to the programs and responsibilities of the United States Army Corps of Engineers;

''(2) the Secretary of the Interior, for major rules relating to the programs and responsibilities of the Office of Surface Mining Reclamation and Enforcement;

''(3) the Secretary of Agriculture, for major rules relating to the programs and responsibilities of—

''(A) the Animal and Plant Health Inspection Service;

''(B) the Grain Inspection, Packers, and Stockyards Administration;

''(C) the Food Safety and Inspection Service;

''(D) the Forest Service; and

''(E) the Natural Resources Conservation Service;

''(4) the Secretary of Commerce, for major rules relating to the programs and responsibilities of the National Marine Fisheries Service;

''(5) the Secretary of Labor, for major rules relating to the programs and responsibilities of—

''(A) the Occupational Safety and Health Administration; and

''(B) the Mine Safety and Health Administration;

''(6) the Secretary of Health and Human Services, for major rules relating to the programs and responsibilities assigned to the Food and Drug Administration;

''(7) the Secretary of Transportation, for major rules relating to the programs and responsibilities assigned to—

''(A) the Federal Aviation Administration; and

''(B) the National Highway Traffic Safety Administration;

''(8) the Secretary of Energy, for major rules relating to nuclear safety, occupational safety and health, and environmental restoration and waste management;

''(9) the Chairman of the Consumer Product Safety Commission;

''(10) the Administrator of the Environmental Protection Agency; and

''(11) the Chairman of the Nuclear Regulatory Commission.

''(b)(1) No later than 18 months after the effective date of this section, the President, acting through the Director of the Office of Management and Budget, shall determine whether other Federal agencies should be considered covered agencies for the purposes of this subchapter. Such determination, with respect to a particular Federal agency, shall be based on the impact of risk assessment documents and risk characterization documents on—

''(A) regulatory programs administered by that agency; and

''(B) the communication of risk information by that agency to the public.

''(2) If the President makes a determination under paragraph (1), this subchapter shall apply to any agency determined to be a covered agency beginning on a date set by the President. Such date may be no later than 6 months after the date of such determination.

''(c)(1) This subchapter shall not apply to risk assessments or risk characterizations performed with respect to—

''(A) an emergency determined by the head of an agency;

''(B) a health, safety, or environmental inspection, compliance or enforcement action, or individual facility permitting action; or

''(C) a screening analysis.

''(2) This subchapter shall not apply to any food, drug, or other product label, or to any risk characterization appearing on any such label.

''§ 633. Savings provisions

''Nothing in this subchapter shall be construed to—

''(1) modify any statutory standard or requirement designed to protect human health, safety, or the environment; or

''(2) require the disclosure of any trade secret or other confidential information.

''§ 634. Principles for risk assessments

''(a)(1) The head of each agency shall design and conduct risk assessments in a manner that promotes rational and informed risk management decisions and informed public input into the process of making agency decisions.

''(2) The head of each agency shall establish and maintain a distinction between risk assessment and risk management.

''(3) An agency may take into account priorities for managing risks, including the types of information that would be important in evaluating a full range of alternatives, in developing priorities for risk assessment activities.

''(4) An agency shall not be required to repeat discussions or explanations in each risk assessment required under this subchapter if there is an unambiguous reference to a relevant discussion or explanation in another reasonably available agency document that meets the requirements of this section.

''(5)(A) In conducting a risk assessment, the head of each agency shall employ the level of detail and rigor appropriate and practicable for reasoned decisionmaking in the matter involved, proportionate to the significance and complexity of the potential agency action and the need for expedition.

''(B)(i) Each agency shall develop and use an iterative process for risk assessment, starting with relatively inexpensive screening analyses and progressing to more rigorous analyses, as circumstances or results warrant.

''(ii) In determining whether or not to proceed to a more detailed analysis, the head of the agency shall take into consideration whether or not use of additional data or the analysis thereof would significantly change the estimate of risk.

''(b)(1) The head of each agency shall base each risk assessment on the best reasonably available scientific information, including scientific information that finds or fails to find a correlation between a potential hazard and an adverse effect, and data regarding exposure and other relevant physical conditions that are reasonably expected to be encountered.

''(2) The head of an agency shall select data for use in the assessment based on an appropriate consideration of the quality and relevance of the data, and shall describe the basis for selecting the data.

''(3) In making its selection of data, the head of an agency shall consider whether the data were developed in accordance with good scientific practice or other appropriate protocols to ensure data quality.

''(4) Subject to paragraph (3), relevant scientific data submitted by interested parties shall be reviewed and considered in the analysis by the head of an agency under paragraph (2).

''(5) When conflicts among scientific data appear to exist, the risk assessment shall include a discussion of all relevant information, including the likelihood of alternative interpretations of data.

''(c)(1) To the maximum extent practicable, the head of each agency shall use postulates, including default assumptions, inferences, models, or safety factors, when relevant scientific data and understanding, including site-specific data, are lacking.

''(2) When a risk assessment involves choice of a postulate, the head of the agency shall—

''(A) identify the postulate and its scientific or policy basis, including the extent to which the postulate has been validated by, or conflicts with, empirical data;

''(B) explain the basis for any choices among postulates; and

''(C) describe reasonable alternative postulates that were not selected by the agency for use in the risk assessment, and the sensitivity for the conclusions of the risk assessment to the alternatives, and the rationale for not using such alternatives.

''(3) An agency shall not inappropriately combine or compound multiple postulates.

''(4) The head of each agency shall develop a procedure and publish guidelines for choosing default postulates and for deciding when and how in a specific risk assessments to adopt alternative postulates or to use available scientific information in place of a default postulate.

''(d) The head of each agency shall provide appropriate opportunities for public participation and comment on risk assessments.

''(e) In each risk assessment, the head of each agency shall include in the risk characterization, as appropriate, each of the following:

''(1) A description of the hazard of concern.

''(2) A description of the populations or natural resources that are the subject of the risk assessment.

''(3) An explanation of the exposure scenarios used in the risk assessment, including an estimate of the corresponding population at risk and the likelihood of such exposure scenarios.

''(4) A description of the nature and severity of the harm that could plausibly occur.

''(5) A description of the major uncertainties in each component of the risk assessment and their influence on the results of the assessment.

''(f) To the extent feasible and scientifically appropriate, the head of an agency shall—

''(1) express the overall estimate of risk as a range or probability distribution that reflects variabilities and uncertainties in the analysis;

''(2) provide the range and distribution of risks and the corresponding exposure scenarios, identifying the reasonably expected risk to the general population and, where appropriate, to more highly exposed or sensitive subpopulations; and

''(3) where quantitative estimates of the range and distribution of risk estimates are not available, describe the qualitative factors influencing the range of possible risks.

''(g) The head of an agency shall place the nature and magnitude of risks to human health, safety, and the environment being analyzed in context, including appropriate comparisons with other risks that are familiar to, and routinely encountered by, the general public.

''(h) In any notice of proposed or final regulatory action subject to this subchapter, the head of an agency shall describe significant substitution risks to human health or safety identified by the agency or contained in information provided to the agency by a commentator.

''§ 635. Peer review

''(a) The head of each covered agency shall develop a systematic program for independent and external peer review required under subsection (b). Such program shall be applicable throughout each covered agency and—

''(1) shall provide for the creation of peer review panels that—

''(A) consist of members with expertise relevant to the sciences involved in regulatory decisions and who are independent of the covered agency; and

''(B) are broadly representative and balanced and, to the extent relevant and appropriate, may include persons affiliated with Federal, State, local, or tribal governments, small businesses, other representatives of industry, universities, agriculture, labor consumers, conservation organizations, or other public interest groups and organizations;

''(2) shall not exclude any person with substantial and relevant expertise as a panel member on the basis that such person represents an entity that may have a potential interest in the outcome, if such interest is fully disclosed to the agency, and in the case of a regulatory decision affecting a single entity, no peer reviewer representing such entity may be included on the panel;

''(3) shall provide for a timely completed peer review, meeting agency deadlines, that contains a balanced presentation of all considerations, including minority reports and an agency response to all significant peer review comments; and

''(4) shall provide adequate protections for confidential business information and trade secrets, including requiring panel members to enter into confidentiality agreements.

''(b)(1)(A) Except as provided under subparagraph (B), each covered agency shall provide for peer review in accordance with this section of any risk assessment or cost-benefit analysis that forms the basis of any major rule that addresses risks to the environment, health, or safety.

''(B) Subparagraph (A) shall not apply to a rule or other action taken by an agency to authorize or approve any individual substance or product.

''(2) The Director of the Office of Management and Budget may order that peer review be provided for any risk assessment or cost-benefit analysis that is likely to have a significant impact on public policy decisions or would establish an important precedent.

''(c) Each peer review under this section shall include a report to the Federal agency concerned with respect to the scientific and technical merit of data and methods used for the risk assessments or cost-benefit analyses.

''(d) The head of the covered agency shall provide a written response to all significant peer review comments.

''(e) All peer review comments or conclusions and the agency's responses shall be made available to the public and shall be made part of the administrative record for purposes of judicial review of any final agency action.

''(f) No peer review shall be required under this section for any data, method, document, or assessment, or any component thereof, which has been previously subjected to peer review.

''§ 636. Guidelines, plan for assessing new information, and report

''(a)(1)(A) As soon as practicable and scientifically feasible, each covered agency shall adopt, after notification and opportunity for public comment, guidelines to implement the risk assessment principles under section 634, as well as the cost-benefit analysis requirements under section 622, and shall provide a format for summarizing risk assessment results.

''(B) No later than 12 months after the effective date of this section, the head of each covered agency shall issue a report on the status of such guidelines to the Congress.

''(2) The guidelines under paragraph (1) shall—

''(A) include guidance on use of specific technical methodologies and standards for acceptable quality of specific kinds of data;

''(B) address important decisional factors for the risk assessment, risk characterization, and cost-benefit analysis at issue; and

''(C) provide procedures for the refinement and replacement of policy-based default assumptions.

''(b) The guidelines, plan and report under this section shall be developed after notice and opportunity for public comment, and after consultation with representatives of appropriate State agencies and local governments, and such other departments and agencies, organizations, or persons as may be advisable.

''(c) The President shall review the guidelines published under this section at least every 4 years.

''(d) The development, issuance, and publication of risk assessment and risk characterization guidelines under this section shall not be subject to judicial review.

''§ 637. Research and training in risk assessment

''(a) The head of each covered agency shall regularly and systematically evaluate risk assessment research and training needs of the agency, including, where relevant and appropriate, the following:

''(1) Research to reduce generic data gaps, to address modelling needs (including improved model sensitivity), and to validate default options, particularly those common to multiple risk assessments.

''(2) Research leading to improvement of methods to quantify and communicate uncertainty and variability among individuals, species, populations, and, in the case of ecological risk assessment, ecological communities.

''(3) Emerging and future areas of research, including research on comparative risk analysis, exposure to multiple chemicals and other stressors, noncancer endpoints, biological markers of exposure and effect, mechanisms of action in both mammalian and nonmammalian species, dynamics and probabilities of physiological and ecosystem exposures, and prediction of ecosystem-level responses.

''(4) Long-term needs to adequately train individuals in risk assessment and risk assessment application. Evaluations under this paragraph shall include an estimate of the resources needed to provide necessary training.

''(b) The head of each covered agency shall develop a strategy and schedule for carrying out research and training to meet the needs identified in subsection (a).

''§ 638. Interagency coordination

''(a) To promote the conduct, application, and practice of risk assessment in a consistent manner and to identify risk assessment data and research needs common to more than 1 Federal agency, the Director of the Office of Management and Budget, in consultation with the Office of Science and Technology Policy, shall—

''(1) periodically survey the manner in which each Federal agency involved in risk assessment is conducting such risk assessment to determine the scope and adequacy of risk assessment practices in use by the Federal Government;

''(2) provide advice and recommendations to the President and Congress based on the surveys conducted and determinations made under paragraph (1);

''(3) establish appropriate interagency mechanisms to promote—

''(A) coordination among Federal agencies conducting risk assessment with respect to the conduct, application, and practice of risk assessment; and

''(B) the use of state-of-the-art risk assessment practices throughout the Federal Government;

''(4) establish appropriate mechanisms between Federal and State agencies to communicate state-of-the-art risk assessment practices; and

''(5) periodically convene meetings with State government representatives and Federal and other leaders to assess the effectiveness of Federal and State cooperation in the development and application of risk assessment.

''(b) The President shall appoint National Peer Review Panels to review every 3 years the risk assessment practices of each covered agency for programs designed to protect human health, safety, or the environment. The Panels shall submit a report to the President and the Congress at least every 3 years containing the results of such review.

''§ 639. Plan for review of risk assessments

''(a) No later than 18 months after the effective date of this section, the head of each covered agency shall publish a plan to review and revise any risk assessment published before the expiration of such 18-month period if the covered agency determines that significant new information or methodologies are available that could significantly alter the results of the prior risk assessment.

''(b) A plan under subsection (a) shall—

''(1) provide procedures for receiving and considering new information and risk assessments from the public; and

''(2) set priorities and criteria for review and revision of risk assessments based on such factors as the agency head considers appropriate.

''§ 640. Judicial review

''The provisions of section 623 relating to judicial review shall apply to this subchapter.

''§ 640a. Deadlines for rulemaking

''The provisions of section 624 relating to deadlines for rulemaking shall apply to this subchapter.

''SUBCHAPTER IV—EXECUTIVE OVERSIGHT

''§ 641. Definition

''For purposes of this subchapter, the definitions under sections 551 and 621 shall apply.

''§ 642. Procedures

''The Director or other designated officer to whom authority is delegated under section 644 shall—

''(1) establish procedures for agency compliance with this chapter; and

''(2) monitor, review, and ensure agency implementation of such procedures.

''§ 643. Promulgation and adoption

''(a) Procedures established pursuant to section 642 shall only be implemented after opportunity for public comment. Any such procedures shall be consistent with the prompt completion of rulemaking proceedings.

''(b)(1) If procedures established pursuant to section 642 include review of any initial or final analyses of a rule required under this chapter, the time for any such review of any initial analysis shall not exceed 60 days following the receipt of the analysis by the Director, a designee of the President, or by an officer to whom the authority granted under section 642 has been delegated pursuant to section 644.

''(2) The time for review of any final analysis required under this chapter shall not exceed 60 days following the receipt of the analysis by the Director, a designee of the President, or such officer.

''(3)(A) The times for each such review may be extended for good cause by the President or such officer for an additional 30 days.

''(B) Notice of any such extension, together with a succinct statement of the reasons therefor, shall be inserted in the rulemaking file.

''§ 644. Delegation of authority

''(a) The President shall delegate the authority granted by this subchapter to the Director or to another officer within the Executive Office of the President whose appointment has been subject to the advice and consent of the Senate.

''(b) Notice of any delegation, or any revocation or modification thereof shall be published in the Federal Register.

''§ 645. Public disclosure of information

''The Director or other designated officer to whom authority is delegated under section 644, in carrying out the provisions of section 642, shall establish procedures (covering all employees of the Director or other designated officer) to provide public and agency access to information concerning regulatory review actions, including—

''(1) disclosure to the public on an ongoing basis of information regarding the status of regulatory actions undergoing review;

''(2) disclosure to the public, no later than publication of, or other substantive notice to the public concerning a regulatory action, of—

''(A) all written communications, regardless of form or format, including drafts of all proposals and associated analyses, between the Director or other designated officer and the regulatory agency;

''(B) all written communications, regardless of form or format, between the Director or other designated officer and any person not employed by the executive branch of the Federal Government relating to the substance of a regulatory action;

''(C) a record of all oral communications relating to the substance of a regulatory action between the Director or other designated officer and any person not employed by the executive branch of the Federal Government; and

''(D) a written explanation of any review action and the date of such action; and

''(3) disclosure to the regulatory agency, on a timely basis, of—

''(A) all written communications between the Director or other designated officer and

any person who is not employed by the executive branch of the Federal Government;

''(B) a record of all oral communications, and an invitation to participate in meetings, relating to the substance of a regulatory action between the Director or other designated officer and any person not employed by the executive branch of the Federal Government; and

''(C) a written explanation of any review action taken concerning an agency regulatory action.

''§ 646. Judicial review

''The exercise of the authority granted under this subchapter by the Director, the President, or by an officer to whom such authority has been delegated under section 644 shall not be subject to judicial review in any manner.''.

(b) REGULATORY FLEXIBILITY ANALYSIS.—

(1) IN GENERAL.—Section 611 of title 5, United States Code, is amended to read as follows:

''§ 611. Judicial review

''(a)(1) Except as provided in paragraph (2), no later than 1 year after the effective date of a final rule with respect to which an agency—

''(A) certified, pursuant to section 605(b), that such rule would not have a significant economic impact on a substantial number of small entities; or

''(B) prepared a final regulatory flexibility analysis pursuant to section 604,

an affected small entity may petition for the judicial review of such certification or analysis in accordance with this subsection. A court having jurisdiction to review such rule for compliance with section 553 of this title or under any other provision of law shall have jurisdiction to review such certification or analysis.

''(2)(A) Except as provided in subparagraph (B), in the case of a provision of law that requires that an action challenging a final agency regulation be commenced before the expiration of the 1-year period provided in paragraph (1), such lesser period shall apply to a petition for the judicial review under this subsection.

''(B) In a case in which an agency delays the issuance of a final regulatory flexibility analysis pursuant to section 608(b), a petition for judicial review under this subsection shall be filed no later than—

''(i) 1 year; or

''(ii) in a case in which a provision of law requires that an action challenging a final agency regulation be commenced before the expiration of the 1-year period provided in paragraph (1), the number of days specified in such provision of law,

after the date the analysis is made available to the public.

''(3) For purposes of this subsection, the term 'affected small entity' means a small entity that is or will be adversely affected by the final rule.

''(4) Nothing in this subsection shall be construed to affect the authority of any court to stay the effective date of any rule or provision thereof under any other provision of law.

''(5)(A) In a case in which an agency certifies that such rule would not have a significant economic impact on a substantial number of small entities, the court may order the agency to prepare a final regulatory flexibility analysis pursuant to section 604 if the court determines, on the basis of the rulemaking record, that the certification was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

''(B) In a case in which the agency prepared a final regulatory flexibility analysis, the court may order the agency to take corrective action consistent with section 604 if the court determines, on the basis of the rulemaking record, that the final regulatory flexibility analysis was prepared by the agency without complying with section 604.

''(6) If, by the end of the 90-day period beginning on the date of the order of the court pursuant to paragraph (5) (or such longer period as the court may provide), the agency fails, as appropriate—

''(A) to prepare the analysis required by section 604; or

''(B) to take corrective action consistent with section 604 of this title,

the court may stay the rule or grant such other relief as it deems appropriate.

''(7) In making any determination or granting any relief authorized by this subsection, the court shall take due account of the rule of prejudicial error.

''(b) In an action for the judicial review of a rule, any regulatory flexibility analysis for such rule (including an analysis prepared or corrected pursuant to subsection (a)(5)) shall constitute part of the whole record of agency action in connection with such review.

''(c) Nothing in this section bars judicial review of any other impact statement or similar analysis required by any other law if judicial review of such statement or analysis is otherwise provided by law.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the effective date of this Act, except that the judicial review authorized by section 611(a) of title 5, United States Code (as added by subsection (a)), shall apply only to final agency rules issued after such effective date.

(c) PRESIDENTIAL AUTHORITY.—Nothing in this Act shall limit the exercise by the President of the authority and responsibility that the President otherwise possesses under the Constitution and other laws of the United States with respect to regulatory policies, procedures, and programs of departments, agencies, and offices.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Part I of title 5, United States Code, is amended by striking out the chapter heading and table of sections for chapter 6 and inserting in lieu thereof the following:

''CHAPTER 6—THE ANALYSIS OF REGULATORY FUNCTIONS

''SUBCHAPTER I—REGULATORY ANALYSIS

''SUBCHAPTER II—ANALYSIS OF AGENCY RULES

''SUBCHAPTER III—RISK ASSESSMENTS

''SUBCHAPTER IV—EXECUTIVE OVERSIGHT

(2) Chapter 6 of title 5, United States Code, is amended by inserting immediately before section 601, the following subchapter heading:

''SUBCHAPTER I—REGULATORY ANALYSIS''.

SEC. 4. CONGRESSIONAL REVIEW.

(a) IN GENERAL.—Part I of title 5, United States Code, is amended by inserting after chapter 7 the following new chapter:

''CHAPTER 8—CONGRESSIONAL REVIEW OF AGENCY RULEMAKING

''§ 801. Congressional review of agency rulemaking

''(a) For purposes of this chapter, the term—

''(1) 'major rule' means a major rule as defined under section 621(4) of this title and as determined under section 622 of this title; and

''(2) 'rule' (except in reference to a rule of the Senate or House of Representatives) is a reference to a major rule.

''(b)(1) Upon the promulgation of a final major rule, the agency promulgating such rule shall submit to the Congress a copy of the rule, the statement of basis and purpose for the rule, and the proposed effective date of the rule.

''(2) A rule submitted under paragraph (1) shall not take effect as a final rule before the latest of the following:

''(A) The later of the date occurring 45 days after the date on which—

''(i) the Congress receives the rule submitted under paragraph (1); or

''(ii) the rule is published in the Federal Register.

''(B) If the Congress passes a joint resolution of disapproval described under subsection (i) relating to the rule, and the President signs a veto of such resolution, the earlier date—

''(i) on which either House of Congress votes and fails to override the veto of the President; or

''(ii) occurring 30 session days after the date on which the Congress received the veto and objections of the President.

''(C) The date the rule would have otherwise taken effect, if not for this section (unless a joint resolution of disapproval under subsection (i) is approved).

''(c) A major rule shall not take effect as a final rule if the Congress passes a joint resolution of disapproval described under subsection (i), which is signed by the President or is vetoed and overridden by the Congress.

''(d)(1) Notwithstanding any other provision of this section (except subject to paragraph (2)), a major rule that would not take effect by reason of this section may take effect if the President makes a determination and submits written notice of such determination to the Congress that the major rule should take effect because such major rule is—

''(A) necessary because of an imminent threat to health or safety, or other emergency;

''(B) necessary for the enforcement of criminal laws; or

''(C) necessary for national security.

''(2) An exercise by the President of the authority under this subsection shall have no effect on the procedures under subsection (i) or the effect of a joint resolution of disapproval under this section.

''(e)(1) Subsection (i) shall apply to any major rule that is promulgated as a final rule during the period beginning on the date occurring 60 days before the date the Congress adjourns sine die through the date on which the succeeding Congress first convenes.

''(2) For purposes of subsection (i), a major rule described under paragraph (1) shall be treated as though such rule were published in the Federal Register (as a rule that shall take effect as a final rule) on the date the succeeding Congress first convenes.

''(3) During the period between the date the Congress adjourns sine die through the date on which the succeeding Congress first convenes, a rule described under paragraph (1) shall take effect as a final rule as otherwise provided by law.

''(f) Any rule that takes effect and later is made of no force or effect by the enactment of a joint resolution under subsection (i) shall be treated as though such rule had never taken effect.

''(g) If the Congress does not enact a joint resolution of disapproval under subsection (i), no court or agency may infer any intent of the Congress from any action or inaction of the Congress with regard to such major rule, related statute, or joint resolution of disapproval.

''(h) If the agency fails to comply with the requirements of subsection (b) for any rule, the rule shall cease to be enforceable against any person.

''(i)(1) For purposes of this subsection, the term 'joint resolution' means only a joint resolution introduced after the date on which the rule referred to in subsection (b) is received by Congress the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule submitted by the _____ relating to _____, and such rule shall have no force or effect.' (The blank spaces being appropriately filled in.)

''(2)(A) In the Senate, a resolution described in paragraph (1) shall be referred to the committees with jurisdiction. Such a resolution shall not be reported before the eighth day after its submission or publication date.

''(B) For purposes of this subsection, the term 'submission or publication date' means the later of the date on which—

''(i) the Congress receives the rule submitted under subsection (b)(1); or

''(ii) the rule is published in the Federal Register.

''(3) In the Senate, if the committee to which a resolution described in paragraph (1) is referred has not reported such resolution (or an identical resolution) at the end of 20 calendar days after its submission or publication date, such committee may be discharged on a petition approved by 30 Senators from further consideration of such resolution and such resolution shall be placed on the Senate calendar.

''(4)(A) In the Senate, when the committee to which a resolution is referred has reported, or when a committee is discharged (under paragraph (3)) from further consideration of, a resolution described in paragraph (1), it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) for any Senator to move to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of the resolution) shall be waived. The motion shall be privileged in the Senate and shall not be debatable. The motion shall not be subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the Senate until disposed of.

''(B) In the Senate, debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate shall be in order and shall not be debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution shall not be in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to shall not be in order.

''(C) In the Senate, immediately following the conclusion of the debate on a resolution described in paragraph (1), and a single quorum call at the conclusion of the debate if requested in accordance with the Senate rules, the vote on final passage of the resolution shall occur.

''(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a resolution described in paragraph (1) shall be decided without debate.

''(5) If, before the passage in the Senate of a resolution described in paragraph (1), the Senate receives from the House of Representatives a resolution described in paragraph (1), then the following procedures shall apply:

''(A) The resolution of the House of Representatives shall not be referred to a committee.

''(B) With respect to a resolution described in paragraph (1) of the Senate—

''(i) the procedure in the Senate shall be the same as if no resolution had been received from the other House; but

''(ii) the vote on final passage shall be on the resolution of the other House.

''(6) This subsection is enacted by Congress—

''(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed to be a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in paragraph (1), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

''(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

''(j) No requirements under this chapter shall be subject to judicial review in any manner.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part I of title 5, United States Code, is amended by inserting after the item relating to chapter 7 the following:

''8. Congressional Review of Agency Rulemaking ..... 801''.

SEC. 5. STUDIES AND REPORTS.

(a) RISK ASSESSMENTS.—The Administrative Conference of the United States shall—

(1) develop and carry out an ongoing study of the operation of the risk assessment requirements of subchapter III of chapter 6 of title 5, United States Code (as added by section 3 of this Act); and

(2) submit an annual report to the Congress on the findings of the study.

(b) ADMINISTRATIVE PROCEDURE ACT.—No later than December 31, 1996, the Administrative Conference of the United States shall—

(1) carry out a study of the operation of chapters 5 and 6 of title 5, United States Code (commonly referred to as the Administrative Procedure Act), as amended by section 3 of this Act; and

(2) submit a report to the Congress on the findings of the study, including proposals for revision, if any.

SEC. 6. RISK-BASED PRIORITIES.

(a) PURPOSES.—The purposes of this section are to—

(1) encourage Federal agencies engaged in regulating risks to human health, safety, and the environment to achieve the greatest risk reduction at the least cost practical;

(2) promote the coordination of policies and programs to reduce risks to human health, safety, and the environment; and

(3) promote open communication among Federal agencies, the public, the President, and Congress regarding environmental, health, and safety risks, and the prevention and management of those risks.

(b) DEFINITIONS.—For the purposes of this section:

(1) COMPARATIVE RISK ANALYSIS.—The term ''comparative risk analysis'' means a process to systematically estimate, compare, and rank the size and severity of risks to provide a common basis for evaluating strategies for reducing or preventing those risks.

(2) COVERED AGENCY.—The term ''covered agency'' means each of the following:

(A) The Environmental Protection Agency.

(B) The Department of Labor.

(C) The Department of Transportation.

(D) The Food and Drug Administration.

(E) The Department of Energy.

(F) The Department of the Interior.

(G) The Department of Agriculture.

(H) The Consumer Product Safety Commission.

(I) The National Oceanic and Atmospheric Administration.

(J) The United States Army Corps of Engineers.

(K) The Nuclear Regulatory Commission.

(3) EFFECT.—The term ''effect'' means a deleterious change in the condition of—

(A) a human or other living thing (including death, cancer, or other chronic illness, decreased reproductive capacity, or disfigurement); or

(B) an inanimate thing important to human welfare (including destruction, degeneration, the loss of intended function, and increased costs for maintenance).

(4) IRREVERSIBILITY.—The term ''irreversibility'' means the extent to which a return to conditions before the occurrence of an effect are either very slow or will never occur.

(5) LIKELIHOOD.—The term ''likelihood'' means the estimated probability that an effect will occur.

(6) MAGNITUDE.—The term ''magnitude'' means the number of individuals or the quantity of ecological resources or other resources that contribute to human welfare that are affected by exposure to a stressor.

(7) SERIOUSNESS.—The term ''seriousness'' means the intensity of effect, the likelihood, the irreversibility, and the magnitude.

(c) DEPARTMENT AND AGENCY PROGRAM GOALS.—

(1) SETTING PRIORITIES.—In exercising authority under applicable laws protecting human health, safety, or the environment,

the head of each covered agency should set priorities and use the resources available under those laws to address those risks to human health, safety, and the environment that—

(A) the covered agency determines to be the most serious; and

(B) can be addressed in a cost-effective manner, with the goal of achieving the greatest overall net reduction in risks with the public and private sector resources expended.

(2) DETERMINING THE MOST SERIOUS RISKS.—In identifying the greatest risks under paragraph (1) of this subsection, each covered agency shall consider, at a minimum—

(A) the likelihood, irreversibility, and severity of the effect; and

(B) the number and classes of individuals potentially affected, and shall explicitly take into account the results of the comparative risk analysis conducted under subsection (d) of this section.

(3) OMB REVIEW.—The covered agency's determinations of the most serious risks for purposes of setting priorities shall be reviewed and approved by the Director of the Office of Management and Budget before submission of the covered agency's annual budget requests to Congress.

(4) INCORPORATING RISK-BASED PRIORITIES INTO BUDGET AND PLANNING.—The head of each covered agency shall incorporate the priorities identified under paragraph (1) into the agency budget, strategic planning, regulatory agenda, enforcement, and research activities. When submitting its budget request to Congress and when announcing its regulatory agenda in the Federal Register, each covered agency shall identify the risks that the covered agency head has determined are the most serious and can be addressed in a cost-effective manner under paragraph (1), the basis for that determination, and explicitly identify how the covered agency's requested budget and regulatory agenda reflect those priorities.

(5) EFFECTIVE DATE.—This subsection shall take effect 12 months after the date of enactment of this Act.

(d) COMPARATIVE RISK ANALYSIS.—

(1) REQUIREMENT.—(A)(i) No later than 6 months after the effective date of this Act, the Director of the Office of Management and Budget shall enter into appropriate arrangements with an accredited scientific body—

(I) to conduct a study of the methodologies for using comparative risk to rank dissimilar human health, safety, and environmental risks; and

(II) to conduct a comparative risk analysis.

(ii) The comparative risk analysis shall compare and rank, to the extent feasible, human health, safety, and environmental risks potentially regulated across the spectrum of programs administered by all covered agencies.

(B) The Director shall consult with the Office of Science and Technology Policy regarding the scope of the study and the conduct of the comparative risk analysis.

(2) CRITERIA.—In arranging for the comparative risk analysis referred to in paragraph (1) of this subsection, the Director shall ensure that—

(A) the scope and specificity of the analysis are sufficient to provide the President and agency heads guidance in allocating resources across agencies and among programs in agencies to achieve the greatest degree of risk prevention and reduction for the public and private resources expended;

(B) the analysis is conducted through an open process, by individuals with relevant expertise, including toxicologists, biologists, engineers and experts in medicine, industrial hygiene and environmental effects;

(C) the analysis is conducted, to the extent feasible, consistent with the risk assessment and risk characterization principles in sections 635 and 636 of this title;

(D) the methodologies and principal scientific determinations made in the analysis are subjected to independent and external peer review consistent with section 635, and the conclusions of the peer review are made publicly available as part of the final report required under subsection (e);

(E) there is an opportunity for public comment on the results before making them final; and

(F) the results are presented in a manner that distinguishes between the scientific conclusions and any policy or value judgments embodied in the comparisons.

(3) COMPLETION AND REVIEW.—No later than 3 years after the effective date of this Act, the comparative risk analysis required under paragraph (1) shall be completed. The comparative risk analysis shall be reviewed and revised at least every 5 years thereafter for a minimum of 15 years following the release of the first analysis. The Director shall arrange for such review and revision with an accredited scientific body in the same manner as provided under paragraphs (1) and (2).

(4) STUDY.—The study of methodologies provided under paragraph (1) shall be conducted as part of the first comparative risk analysis and shall be completed no later than 180 days after the completion of that analysis. The goal of the study shall be to develop and rigorously test methods of comparative risk analysis. The study shall have sufficient scope and breadth to test approaches for improving comparative risk analysis and its use in setting priorities for human health, safety, and environmental risk prevention and reduction.

(5) TECHNICAL GUIDANCE.—No later than 180 days after the effective date of this Act, the Director, in collaboration with other heads of covered agencies shall enter into a contract with the National Research Council to provide technical guidance to agencies on approaches to using comparative risk analysis in setting human health, safety, and environmental priorities to assist agencies in complying with subsection (c) of this section.

(e) REPORTS AND RECOMMENDATIONS TO CONGRESS AND THE PRESIDENT.—No later than 24 months after the effective date of this Act, each covered agency shall submit a report to Congress and the President—

(1) detailing how the agency has complied with subsection (c) and describing the reasons for any departure from the requirement to establish priorities to achieve the greatest overall net reduction in risk;

(2) recommending—

(A) modification, repeal, or enactment of laws to reform, eliminate, or enhance programs or mandates relating to human health, safety, or the environment; and

(B) modification or elimination of statutorily or judicially mandated deadlines,

that would assist the covered agency to set priorities in activities to address the risks to human health, safety, or the environment in a manner consistent with the requirements of subsection (c)(1);

(3) evaluating the categories of policy and value judgments used in risk assessment, risk characterization, or cost-benefit analysis; and

(4) discussing risk assessment research and training needs, and the agency's strategy and schedule for meeting those needs.

(f) SAVINGS PROVISION AND JUDICIAL REVIEW.—

(1) IN GENERAL.—Nothing in this section shall be construed to modify any statutory standard or requirement designed to protect human health, safety, or the environment.

(2) JUDICIAL REVIEW.—Compliance or noncompliance by an agency with the provisions of this section shall not be subject to judicial review.

(3) AGENCY ANALYSIS.—Any analysis prepared under this section shall not be subject to judicial consideration separate or apart from the requirement, rule, program, or law to which it relates. When an action for judicial review of a covered agency action is instituted, any analysis for, or relating to, the action shall constitute part of the whole record of agency action for the purpose of judicial review of the action and shall, to the extent relevant, be considered by a court in determining the legality of the covered agency action.

SEC. 7. REGULATORY ACCOUNTING.

(a) DEFINITIONS.—For purposes of this section, the following definitions apply:

(1) AGENCY.—The term ''agency'' means any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency, but shall not include—

(A) the General Accounting Office;

(B) the Federal Election Commission;

(C) the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions; or

(D) government-owned contractor-operated facilities, including laboratories engaged in national defense research and production activities.

(2) REGULATION.—The term ''regulation'' means an agency statement of general applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the procedures or practice requirements of an agency. The term shall not include—

(A) administrative actions governed by sections 556 and 557 of title 5, United States Code;

(B) regulations issued with respect to a military or foreign affairs function of the United States; or

(C) regulations related to agency organization, management, or personnel.

(b) ACCOUNTING STATEMENT.—

(1) IN GENERAL.—(A) The President shall be responsible for implementing and administering the requirements of this section.

(B) Every 2 years, no later than June of the second year, the President shall prepare and submit to Congress an accounting statement that estimates the annual costs of Federal regulatory programs and corresponding benefits in accordance with this subsection.

(2) YEARS COVERED BY ACCOUNTING STATEMENT.—Each accounting statement shall cover, at a minimum, the 5 fiscal years beginning on October 1 of the year in which the report is submitted and may cover any fiscal year preceding such fiscal years for purpose of revising previous estimates.

(3) TIMING AND PROCEDURES.—(A) The President shall provide notice and opportunity for comment for each accounting statement. The President may delegate to an agency the requirement to provide notice and opportunity to comment for the portion of the accounting statement relating to that agency.

(B) The President shall propose the first accounting statement under this subsection no later than 2 years after the effective date of this Act and shall issue the first accounting statement in final form no later than 3 years after such effective date. Such statement shall cover, at a minimum, each of the fiscal years beginning after the effective date of this Act.

(4) CONTENT OF ACCOUNTING STATEMENT.—(A) Each accounting statement shall contain

estimates of costs and benefits with respect to each fiscal year covered by the statement in accordance with this paragraph. For each such fiscal year for which estimates were made in a previous accounting statement, the statement shall revise those estimates and state the reasons for the revisions.

(B)(i) An accounting statement shall estimate the costs of Federal regulatory programs by setting forth, for each year covered by the statement—

(I) the annual expenditure of national economic resources for each regulatory program; and

(II) such other quantitative and qualitative measures of costs as the President considers appropriate.

(ii) For purposes of the estimate of costs in the accounting statement, national economic resources shall include, and shall be listed under, at least the following categories:

(I) Private sector costs.

(II) Federal sector costs.

(III) State and local government costs.

(C) An accounting statement shall estimate the benefits of Federal regulatory programs by setting forth, for each year covered by the statement, such quantitative and qualitative measures of benefits as the President considers appropriate. Any estimates of benefits concerning reduction in human health, safety, or environmental risks shall present the most plausible level of risk practical, along with a statement of the reasonable degree of scientific certainty.

(c) ASSOCIATED REPORT TO CONGRESS.—

(1) IN GENERAL.—At the same time as the President submits an accounting statement under subsection (b), the President, acting through the Director of the Office of Management and Budget, shall submit to Congress a report associated with the accounting statement (hereinafter referred to as an ''associated report''). The associated report shall contain, in accordance with this subsection—

(A) analyses of impacts; and

(B) recommendations for reform.

(2) ANALYSES OF IMPACTS.—The President shall include in the associated report the following:

(A) The cumulative impact on the economy of Federal regulatory programs covered in the accounting statement. Factors to be considered in such report shall include impacts on the following:

(i) The ability of State and local governments to provide essential services, including police, fire protection, and education.

(ii) Small business.

(iii) Productivity.

(iv) Wages.

(v) Economic growth.

(vi) Technological innovation.

(vii) Consumer prices for goods and services.

(viii) Such other factors considered appropriate by the President.

(B) A summary of any independent analyses of impacts prepared by persons commenting during the comment period on the accounting statement.

(3) RECOMMENDATIONS FOR REFORM.—The President shall include in the associated report the following:

(A) A summary of recommendations of the President for reform or elimination of any Federal regulatory program or program element that does not represent sound use of national economic resources or otherwise is inefficient.

(B) A summary of any recommendations for such reform or elimination of Federal regulatory programs or program elements prepared by persons commenting during the comment period on the accounting statement.

(d) GUIDANCE FROM OFFICE OF MANAGEMENT AND BUDGET.—The Director of the Office of Management and Budget shall, in consultation with the Council of Economic Advisers and the agencies, develop guidance for the agencies—

(1) to standardize measures of costs and benefits in accounting statements prepared pursuant to this section and section 3 of this Act, including—

(A) detailed guidance on estimating the costs and benefits of major rules; and

(B) general guidance on estimating the costs and benefits of all other rules that do not meet the thresholds for major rules; and

(2) to standardize the format of the accounting statements.

(e) RECOMMENDATIONS FROM CONGRESSIONAL BUDGET OFFICE.—After each accounting statement and associated report submitted to Congress, the Director of the Congressional Budget Office shall make recommendations to the President—

(1) for improving accounting statements prepared pursuant to this section, including recommendations on level of detail and accuracy; and

(2) for improving associated reports prepared pursuant to this section, including recommendations on the quality of analysis.

(f) JUDICIAL REVIEW.—No requirements under this section shall be subject to judicial review in any manner.

SEC. 8. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act shall take effect 180 days after the date of the enactment of this Act.

REGULATORY REFORM ALTERNATIVE AND COMPARISONS WITH DOLE/JOHNSTON

Our principles for regulatory reform are the following:

(1) Cost-benefit and risk assessment requirements should apply to only major rules, which has been set at $100 million for executive branch review since President Reagan's time.

Our bill applies to rules that have an impact on the economy of $100 million or more.

The Dole/Johnston draft applies to rules that have an impact on the economy of $50 million or more.

(2) Regulatory reform should not become a lawyer's dream, opening up a multitude of new avenues for judicial review.

Our bill limits judicial review to determinations of: (1) whether a rule is major; and (2) whether a final rule is arbitrary or capricious, taking into consideration the whole rulemaking file. Specific procedural requirements for cost-benefit analysis and risk assessment are not subject to judicial review except as part of the whole rulemaking file.

The Dole/Johnston draft will lead to a litigation explosion that will swamp the courts and bog down agencies. It would allow review of steps in risk assessment and cost-benefit analysis, in addition to the determination of a major rule and of agency decisions to grant or deny petitions. It alters APA standards in ways that undermine legal precedent and invite lawsuits. And it seeks to limit agency discretion in ways that will lead inevitably to challenges in court.

(3) Regulatory reform should not be a ''fix'' for special interests.

Our bill focuses on the fundamentals of regulatory reform and contains no special interest provisions.

The Dole/Johnston draft provides relief to specific business interests, e.g., by restricting the Toxics Release Inventory, limiting the Delaney Clause, and delaying and increasing costs of Superfund cleanups.

(4) Regulatory reform should make Federal agencies more efficient and effective, not tie up agency resources with additional bureaucratic processes.

Our bill requires cost-benefit analysis and risk assessment for major rules, and requires agencies to review all their major rules by a time certain.

The Dole/Johnston draft covers a much broader scope of rules and has several convoluted petition processes for ''interested parties'' (e.g., to amend or rescind a major rule, and to review policies or guidance). These petitions are judicially reviewable and must be granted or denied by an agency within a specified time frame. The petitions will eat up agency resources and allow the petitioners, not the agencies, to set agency priorities.

(5) Regulatory reform legislation should improve analysis, but not override health, safety or environmental protections.

Our bill requires agencies to explain whether benefits justify costs and whether the rule will be more cost-effective than alternatives. It does not allow cost-benefit determinations to control agency decisions or to override existing protections of health, safety or environmental laws.

The Dole/Johnston draft has three separate decisional criteria that control agency decisions, regardless of the underlying statutes. These overriding provisions are created for major rule cost-benefit determinations, for environmental cleanups, and for regulatory flexibility analyses. The reg flex override actually conflicts with the cost-benefit decisional criteria. And the cost-benefit test limits agencies to the cheapest rule, not the most cost-effective one.

(6) There should be ''sunshine'' in the regulatory review process.

Our bill ensures that agencies and OMB publicly disclose the status of regulatory review, related decisions and documents, and communications from persons outside of the government.

The Dole/Johnston draft has no ''sunshine'' provisions to protect against regulatory review delay, unsubstantiated review decisions or undisclosed special interest lobbying and political deals.

The text of this bill is almost identical to S. 291, the ''Regulatory Reform Act of 1995,'' which was reported unanimously from the Senate Committee on Governmental Affairs. Like S. 291, this bill:

(1) Covers all ''major'' rules with a cost impact of $100 million.

(2) Requires cost-benefit analysis for all major rules.

(3) Requires risk assessment for all major rules related to environment, health, or safety.

(4) Requires peer review of cost-benefit analyses and risk assessments.

(5) Limits judicial review to the determination of ''major'' rules and to the final rulemaking file.

(6) Requires agencies to review existing rules every ten years, with a presidential extension of up to five years.

(7) Provides judicial review of Regulatory Flexibility Act decisions, allowing one year for small entities to petition for review of agency compliance with the Reg Flex Act.

(8) Requires public disclosure of regulatory analysis and review documents to ensure ''sunshine'' in the regulatory review process.

(9) Provides legislative ''veto'' of major rules to provide an expedited procedure for Congress to review rules.

(10) Requires risk-based priority setting for the most serious risks to health, safety, and the environment.

(11) Requires regulatory accounting every two years on the cumulative costs and benefits of agency regulations.

This bill only differs from S. 291 on three points:

(1) It does not have an arbitrary sunset for existing rules that agency fail to be reviewed. Rather, it has an action-forcing

mechanism that uses the rulemaking process.

(2) It does not include any narrative definitions for ''major'' rule (e.g., ''adverse effects on wages'').

(3) It incorporates technical changes to risk assessment to track more closely recommendations of the National Academy of Sciences and to cover specific programs and agencies, not just agencies.

LIFTING THE YACHTS, SWAMPING THE ROWBOATS

Mr. DASCHLE. Mr. President, if you look past the headlines and the hype connected to the conference agreement on the budget resolution, I think the American people can get a pretty good sense of who's looking out for whom in the Republican budget.

Republican budget writers talked about putting tax money back into the hands of wage earners. Republican budget writers talked about their big tax cuts to fuel the Nation's economic engine.

But the only engine this budget primes is the full-throttle expansion of incomes for the wealthiest Americans. The Republican budget does nothing to address the fact that middle-income families have been stuck in neutral for the past 20 years, while many low-income Americans are sliding into reverse.

Republican budget priorities will only serve to drive deeper and wider the wedge between Americans at either end of the earnings scale.

This country always had, and always will have, the rich, the poor, and the middle class. Like never before, however, these economic groups are pulling away from each other, and it's tearing at the social fabric of our Nation.

Every year, families in the top 5 percent in terms of income now make, on average, the rough equivalent of what 16 low-wage families combined struggle to earn in a year. In the past two decades, America's top earners enjoyed an average 25-percent increase in cash income. Down at the bottom, the lowest wage workers actually felt a 7-percent drop in pay over the same period.

According to a survey published last Sunday in the Washington Post, no other industrialized nation on Earth has a greater income gap between top and bottom than the United States. And in between, the middle class grows larger in number, but their paychecks are stuck in a rut. Hourly wages of workers with average skills are sliding. The absolute incomes of low- and middle-income Americans are actually below those of people in other industrialized countries that are poorer than the United States.

That, Mr. President, is unacceptable. This country was built on the promise of hope that people can, indeed, come up from nothing. That you can work hard from the bottom and eventually reach the top. That you can build a better future for your family through your own honest efforts.

That promise is becoming a lie to an ever-increasing number of Americans. The road to prosperity now crosses a bridge that spans further than many Americans can see.

Mr. President, Democrats believe in prosperity. We believe in economic progress. We want to help American workers earn more. We want more Americans to be wealthy. We would like more low-wage workers to join the ranks of the middle-class. We would like more middle class workers to join the ranks of the rich.

But it seems to me that the Republican budget aspires to no such progress.

It seems to me that the Republican budget will punish those Americans now mired in this stagnant status quo, and provide a kind of winner's bonus to those traveling on the fast track.

While we don't know yet exactly who will get their hands on this $245 billion tax cut, we do know that the House bill gave over half the tax cuts to the 2.8 percent of families making more than $100,000. It is safe bet to assume that the wealthiest 1 percent will get at least a $20,000 tax cut. That little bonus alone is more than twice the annual income earned by families at the bottom of the scale.

And what do we offer to those families who are struggling to move up? Education cuts that hit 65 million children. Student loans that cost $3,000 more per student; $100 billion in so-called welfare reforms, and cuts in the earned income tax credit. And I will not even begin to talk about the harm that will be felt by their plan for Medicare and Medicaid.

It is painfully clear where the priorities lie in the Republican budget. And its not just Democrats who have figured it out. According to Stanford economist Paul Krugman: ''Quite obviously these programs would make unequal incomes even more unequal, particularly at the extremes—the very rich and the very poor.'' Frank Levy, an economist at MIT says:

> We're going through a period in which trade and technology are like an economic natural disaster for the half of the working population that does not have a college degree . . . the last thing you would want to do right now is to have Government make a bad situation worse by extending tax breaks to the rich.

Democrats and Republicans agree on producing a budget that comes into balance within a decade. But Democrats refuse to forget the working Americans who must struggle to live their lives, pay their mortgages, educate their children, and provide for their families over that same decade. These are the families Democrats will neither abandon nor betray in the face of this $245 billion gold rush within the just-passed Republican budget.

Finally, Mr. President, I commend to my colleagues' attention an op-ed printed in last Sunday's Washington Post, ''America's Tide: Lifting the Yachts, Swapping the Rowboats,'' by Gary Burtless and Timothy Smeeding. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 25, 1995]

AMERICA'S TIDE: LIFTING THE YACHTS, SWAMPING THE ROWBOATS

(By Gary Burtless and Timothy Smeeding)

During the early postwar era, most American families could expect to see their incomes grow from one year to the next. During both the 1950s and 1960s, median family income adjusted for inflation rose about a third. With incomes growing this fast, few people (and even fewer politicians) bothered to inquire very closely into the distribution of income. A rising tide lifted all boats, the rowboats as well as the yachts.

But since the early 1970s, the nation's experience has been much more discouraging. In the past 20 years, incomes have not grown at all, and for families near the bottom of the distribution, incomes have done even worse—they have shrunk.

Instead of routinely hearing news about growing incomes, Americans now read dismal reports of swelling poverty rolls, rising inequality and shrinking wages. It would be wrong to conclude from these reports that the United States has not enjoyed prosperity since 1973. On the contrary, the nation added more than 40 million jobs and enjoyed three of its longest postwar expansions.

But American prosperity is extremely uneven. Families and workers at the top of the economic ladder have enjoyed rising incomes. Families in the middle have seen their incomes stagnate or slip. Young families and workers at the bottom have suffered the equivalent of a Great Depression. Though the nation is in the midst of a robust expansion, recent census statistics offer no hint that the trend toward wider inequality has slowed. Poverty rates continue to rise, especially among children and young adults. Hourly wages of workers with average or below-average skills continue to slide. At the same time, the percentage of U.S. income received by the top 5 percent of households continues to climb, reaching new postwar highs almost every year.

Although the United States continues to have a large middle class, the disparity between those at the top of the income scale and those at the bottom has widened significantly. Measured in constant 1990 dollars, a family in the bottom one-fifth of the U.S. income distribution received about $10,400 in gross cash income in 1973. In the same year, a family in the top one-fifth received about $77,500, or roughly 7½ times the average gross income of those at the bottom.

By 1992, average gross income in the bottom fifth of the distribution had shrunk almost 7 percent, falling to just $9,700. Average gross income in the top fifth of the distribution had climbed to $98,800, a gain of more than 25 percent. The average income of a family in the top fifth of the distribution now amounts to more than 10 times that of those at the bottom of the distribution.

Gains among the very wealthy have been even more impressive. Those in the top 5 percent of the distribution saw their incomes climb nearly a third in the past two decades so that the average family in the top bracket takes in the equivalent of what 16 families in the bottom bracket earn. The rising tide is now lifting the yachts, but swamping the rowboats.

Not only have U.S. income disparities soared since the early 1970s, the gap between rich and poor has grown much faster than it has elsewhere in the industrialized world. When the recent inequality trend began, the United States already experienced wider income disparities than other countries with similar standards of living.

Income disparities can be measured in a variety of ways. The accompanying table contains information about the distribution of income in 13 rich industrialized countries. The statistics were compiled by the Luxembourg Income Study and are based on household surveys conducted in the mid-1980s. They reflect personal incomes adjusted for differences in family size. Each country on the list is ranked according to its median after-tax income, measured in U.S. dollars using purchasing-power-parity, a calculation used by economists to compare one nation's real income to another's in a way that adjusts for differences in the capacity to consume goods and services in each country.

Not surprisingly, the United States ranks near the top of industrialized countries in median income. With the exception of a few tax havens, we are still the richest nation on earth. But this method of analyzing income does not attempt to define or talk about the size of the middle class; rather it is a means of evaluating the disparity between rich and poor. And by that measure, we are the most unequal rich nation on earth.

Many people become uneasy when the gap between rich and poor grows too wide. No social scientist or philosopher can tell us when this threshold has been passed. But most of us sense that when the gulf separating rich, middle class and poor grows too large, the social fabric is at risk. Low-income citizens, and those whose incomes used to be closer to the middle but have fallen, may begin to feel a weaker bond with the rest of society and see less reason to respect its rules and institutions.

In recent years, opinion leaders have been increasingly willing to lift their voices in defense of inequality and even to suggest that widening income gaps play a useful social function. The New York Times, in a recent front-page story, described the United States as ''the most economically stratified of industrial nations.'' Shortly after the story appeared, it was attacked in three separate Washington Post columns—by George Will, James K. Glassman and Robert J. Samuelson. Each critic mentioned different shortcomings of the story, but all agreed that the United States is doing a lot better than its lowly rank in the inequality sweepstakes might suggest.

Glassman argued, for example, that U.S. incomes are extremely mobile. Americans who are comfortably well off for one or two years often find themselves in tough circumstances a few years later. The starting pitcher who earned $2 million three years ago can find himself throwing in the minor leagues. Similarly, Americans currently stuck on the bottom can climb their way up the income scale through pluck and hard work. The office messenger can hope for promotion to CEO.

Though valid, the argument of higher social mobility does not go far toward explaining the widening gap between rich and poor or why the U.S. disparity is so much higher than in other wealthy countries. Growing inequality might not represent a social problem if the increase in inequality in a single year were matched by a similar increase in income mobility from one year to the next. The problem is, there has been no increase in income mobility to offset the sharp rise of inequality.

The chance of receiving a large one-year increase in income has never been very high. More to the point, the chance of enjoying a big increase has not grown noticeably in the past few decades. Americans with annual incomes that place them in the bottom quarter of the income distribution have an 80 percent chance of remaining there for at least two years in a row. Although studies over a longer period of time are less conclusive, some research indicates that the probability of moving out of the poorest class has hardly budged since the 1970s.

It might also be the case that Americans enjoy greater class and income mobility than Europeans. U.S. incomes may be more unequal at a given point in time, but, according to this theory, Americans enjoy better opportunities for advancement than residents of other countries. This is an inspiring story, and one that is cherished by many Americans, especially by conservatives. The problem with the theory is that there is no evidence to suggest it is true.

Studies of income mobility suggest that the United States ranks about in the middle of industrialized countries. To analyze mobility, a team of economic researchers tracked the same set of individuals over long periods of time in both the United States and Germany. Their findings showed that the level of inequality within each country actually declined, but that the gap between the two countries grew, with the United States showing wider disparities.

A more fundamental criticism of the Times story, suggested by both Will and Samuelson, goes as follows: Although income disparities are larger in the United States than elsewhere, other societies pay too heavy a price to achieve equality. Will concludes that ''. . . increasingly unequal social rewards can conduce to a more truly egalitarian society, one that offers upward mobility to all who accept its rewarding disciplines.'' Samuelson argues, ''What determines the well-being of most people is the increase of national income and wealth, not their distribution.'' Other countries' attempts to equalize incomes have led to higher joblessness and less entrepreneurial activity than we see in the United States, and hence to slower growth abroad. The United States accepts greater inequality, but is rewarded by higher income and faster growth.

Affluent readers may draw comfort from this reasoning. Americans further down the economic scale might find the logic less appealing. The size and growth of national income undoubtedly helps to determine whether individual citizens can enjoy a comfortable standard of living. Each citizen's living standard also depends, however, on the percentage of national income that he or she is permitted to share. If a pie is to be divided among 10 people, the person receiving the smallest slice may prefer to share a small pie that is divided in roughly equal slices rather than a larger pie that is divided very evenly. A little arithmetic will show that it is better to receive 10 percent of a small pie than 2 percent of a pie that is twice as large.

Stacked against other industrial countries, the after-tax incomes of those people at the lowest 10th percentile of Americans tumbles toward the bottom (see chart). Low-income Finns, for example, receive after-tax incomes that exceed those of low-income Americans by 27 percent. Poor Americans are poor not only by the standards of middle-class Americans, but also in relation to low-income people in most other industrialized countries.

Samuelson and Will may be right that wide income disparities in the United States offer a powerful inducement for Americans to work, save and invest (though it is difficult to find evidence for this in U.S. saving or investment rates, which tend to languish near the bottom of the industrialized world). They may also be correct in believing large and rising disparities contribute to U.S. economic growth, though evidence for this is also weak. Recent studies on the relationship between inequality and growth in fact suggest that advanced countries with more equal distributions grow faster than countries that are less equal. Whatever the advantages of faster growth, they are purely theoretical for many low-income Americans, These Americans have not shared the general prosperity. Their after-tax incomes have slipped even though national output has increased.

Even more depressing is the fact that the absolute incomes of low- and even middle-income Americans are below those of residents in industrialized countries that are poorer than the United States. A comparison of Canada and the United States, based on 1991 income statistics, is particularly striking. In 1991, gross domestic product per person was 13 percent lower in Canada than in the United States. Because the Canadian income distribution is more equal than our own, however, Canadians in the bottom 55 percent of the distribution enjoyed higher after-tax incomes than they would have received in the United States at a comparable position in our income distribution. Of course, Americans in the top 45 percent of the U.S. income distribution received higher incomes than their Canadian counterparts. But for a majority of poorer and middle-class Canadians, the higher average income of the United States has little practical significance. These Canadians enjoy more comfortable incomes in Canada than they would be likely to receive in the United States.

The United States enjoys a high rank in one international contest, however. Americans near the top of our income distribution tend to receive much larger incomes than people with a similar position in other industrialized countries.

It is probably safe to assume that Will, Glassman and Samuelson are closer to the upper tier than the bottom tier of the income distribution. From their perch, U.S. economic performance undoubtedly looks quite satisfying. People further down the economic scale can be forgiven. however, if they doubt their economic good fortune as Americans. If wide income disparities have big advantages for the U.S. economy, low-income Americans are right to think the advantages should eventually show up in a tangible way—in larger paychecks and higher incomes. Whatever the virtues of our economic system, one conclusion is certain: Our fatter paychecks have not gone to the poor.

A TRIBUTE TO SHERMAN J. LINDHARDT ON THE OCCASION OF HIS RETIREMENT

Mr. BENNETT. Mr. President, I rise today to pay tribute to a fellow Utahn, Mr. Sherman J. Lindhardt, who retires today, culminating a distinguished career in public education. For the past 34 years, Sherm Lindhardt has served our youth as a high school history teacher and administrator. For all but 2 of those years, he taught and administered in the Utah public school system.

While this day marks the end of his chosen profession, it should be noted that his influence will continue to be felt far beyond the close of a successful teaching career. Many students, now numbered among the upstanding adult members of our communities, looked to Sherm Lindhardt as a role model of successful living. The father of seven children, Mr. Lindhardt participated as a member of the Smithfield city planning and zoning commission, and continues to serve his local congregation as an ecclesiastical leader of the Church of Jesus Christ of Latter-day

Saints. In addition to his education career, Sherm Lindhardt served in our Nation's Armed Forces, attaining the rank of captain in the U.S. Army.

Again, Mr. President, I would like to pay tribute to Sherman J. Lindhardt for his dedication in teaching our youth. The success of his efforts are clearly evident as we enjoy the benefits of a new generation of community leaders and upstanding citizens. While this day marks the setting of the Sun on a fine career, I am sure that it also marks the beginning of many continued years of service and honorable pursuits by Sherm Lindhardt. In those pursuits I wish him the very best.

WHERE'S WELFARE?

Mr. DASCHLE. Mr. President, as we all know, welfare reform has been one of the most hotly debated issues of this Congress. Two and a half years ago President Clinton promised to end welfare as we know it, and the public has reinforced that message by telling us unequivocally that they want to see this done.

The ball lies in Congress' court, and we have a clear task in front of us. The House has set the stage by passing the Personal Responsibility Act almost 3 months ago. In fact, the House felt this issue was so pressing that they included welfare reform as one of their 10 highest priorities in the Contract With America.

While many of us may disagree with the substantive course the House chose to take, they were clearly responding to a mandate from the public to address this issue in some way.

It is now the Senate's turn. The Finance Committee has completed action on a bill that has been reported to the full Senate, and I think I speak for all Senators on my side of the aisle when I say that we are ready for floor consideration of this legislation.

Mr. President, we had been led to believe that welfare reform might be on the floor as early as the 12th of June. And then we were told by the majority leader that welfare reform would be considered immediately upon completion of action on the telecommunications bill.

That bill was wrapped up last Thursday. It is now the 22d of June, and we are hearing rumors that welfare reform may not be considered in June at all, and may not be considered this summer at all. It may be considered in July—but, then again, we're told by some in the Republican leadership that we may not get to welfare until September.

Mr. President, the notion that the Senate may put off consideration of welfare reform until September is unacceptable.

We are ready. We are ready now.

President Clinton challenged us to have a bill on his desk by July 4, not because of politics, but because it is important for the Nation that we fix a welfare system that is not working—not working for those on it, and not working for those who are footing the bill.

The public has told us that they view the welfare crisis as one of the most pressing problems facing our Nation today. The public is clearly ready for us to address this issue. And Democrats are ready to address it.

The question is, Are Republicans ready?

More to the point: Are Republicans serious about addressing this issue? Are they serious about reform, or just serious about rhetoric?

The Finance Committee reported a welfare bill on June 9. It is now June 22, and I understand my colleagues on the other side of the aisle are divided on how to proceed. They are divided on a number of provisions, either included in, or excluded from, that bill.

Mr. President, I understand division. And I, too, have concerns about the Finance Committee bill. But the proper forum to address these concerns is on the Senate floor.

Bring the bill to the floor and let those who want to offer amendments to modify current provisions do so. Let those who want to add provisions through the amendment process do so.

That is the legislative process.

What concerns me and many on my side of the aisle is that the welfare bill will be delayed until July as Republican Senators meet behind closed doors to try and work out problems.

Then, in July, those doors will still be closed as secret discussions continue. Before we know it, it will be September.

Yes, there are problems with the Finance Committee bill. But let us air those problems on the floor and address them through the open legislative process.

As for the Finance Committee bill, I too, am troubled by many aspects of that legislation.

First, the Finance Committee bill does not solve the problems with our welfare system. It merely boxes up that system and ships it to the States. That is not reform.

Second, the Republicans have said that they want to put welfare recipients to work. But, although the Finance Committee bill requires increased numbers of people to be participating in programs intended to move them toward work, it provides no resources to meet these participation requirements.

The Congressional Budget Office has said that 44 States will be unable to meet the participation requirements in the Finance Committee bill. The U.S. Conference of Mayors has said that this is the mother of all unfunded mandates.

What is clear is that Finance Committee bill is not reform. And it is not about work. In fact, if it is about anything, it is about shipping the welfare problem to the States and—ironically enough—passing the largest unfunded mandate in history.

In essence, the Finance Committee bill represents the kind of typical two-step about which the public is most cynical: It says one thing and means another. It sounds, but is actually disastrous. The Finance Committee bill is about rhetoric, not reform.

It will reap exactly the kind of results the unfunded mandates bill was meant to prevent, and having it come so quickly upon the heels of he unfunded mandates legislation represents hypocrisy at its worst.

It is ironic that most Members put their serious face on when they say that they do not want to hurt children. Mr. President, I want to believe them. But again, it is the difference between rhetoric and reality.

The reality of the Finance Committee bill is that some 4 million children will be cut off from assistance. Some 4 million children could be put out on the street.

Children should not pay for the mistakes or misfortune of their parents.

That is not fair. That is draconian. That is mean.

And that is plain old un-American.

It is one thing to require that able-bodied people go to work. That was the original intent of welfare: To provide out-of-luck families with a helping hand to get back on their feet. I believe most Americans support that kind of a safety net today.

But the Finance Committee plan cuts kids off welfare while doing nothing to help their parents find work. That is wrong; it is unfair; it is shortsighted.

This leads to yet another problem I see with the Finance Committee bill. Anyone who has kids knows that one of the real linchpins between welfare and work is child care. It is impossible to work unless you have some means of caring for your children—it as simple as that.

Nevertheless, the Finance Committee bill fails to address the child care issue in any serious way. It mandates child care for welfare recipients who are working only until the child is 6 years old.

What happens to a 7-year-old? Or an 8-year-old? Or any child that should not be left alone?

Beyond that, the bill does not increase funds for child care, so that as the participation requirements increase—requiring a greater population of welfare mothers to participate in the JOBS Program—there is no corresponding increase in funds for child care.

If we are to increase the mandate for adults to work, but not provide for a corresponding increase in child care funds to enable parents to work, then we are not really expecting parents to work.

Or we are expecting the States to pick up the tab—a sort of unwritten unfunded mandate.

Or we are suggesting that young children can be left alone.

None of these alternatives are acceptable.

So the Finance Committee needs a lot of work. But Democrats are ready to do the work, and the Finance Committee bill does provide us with a mechanism for bringing welfare to the floor of the Senate for debate.

If Republicans have problems with their own bill, they should offer amendments to improve it. That is what Democrats intend to do.

In fact, we will offer an alternative plan that is truly about work.

And so today I urge the majority leader to bring the welfare bill to the floor.

It is time the Senate fulfills its obligation to give the American people what they want and deserve: True welfare reform that will move people off welfare and into work, not by punishing children, but by providing people access to the real means to become self-sufficient.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, as of the close of business yesterday, Thursday, June 29, the Federal debt stood at $4,898,835,701,662.79. On a per capita basis, every man, woman, and child in America owes $18,596.06 as his or her share of that debt.

REGULATORY REFORM ACT

Mr. PRESSLER. Mr. President, during consideration of S. 343, the Regulatory Reform Act, I intended to offer an amendment to waive administrative and civil penalties for local governments when Federal water pollution control compliance plans are in effect.

I believe this amendment is a simple issue of fairness to local governments and I urge my colleagues to join me in supporting this amendment. I ask unanimous consent that the text of my amendment and the text of my ''Dear Colleague'' letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. —

At the appropriate place, insert the following:

SEC. . WAIVER OF PENALTIES WHEN FEDERAL WATER POLLUTION CONTROL ACT COMPLIANCE PLANS ARE IN EFFECT.

Section 309 of the Federal Water Pollution Control Act (33 U.S.C. 1319) is amended by adding at the end the following:

''(h) WAIVER OF PENALTIES WHEN COMPLIANCE PLANS ARE IN EFFECT.—

''(1) IN GENERAL.—Except as provided in paragraph (2), notwithstanding any other provision of this Act, no civil or administrative penalty may be imposed under this Act against a unit of local government for a violation of a provision of this Act (including a violation of a condition of a permit issued under this Act)—

''(A) if the unit of local government has entered into an agreement with the Administrator (or the Secretary of the Army, in the case of a violation of section 404) to carry out a compliance plan with respect to a prior violation of the provision by the unit of local government; and

''(B) during the period—

''(i) beginning on the date on which the unit of local government and the Administrator (or the Secretary of the Army, in the case of a violation of section 404) enter into the agreement; and

''(ii) ending on the date on which the unit of local government is required to be in compliance with the provision under the plan.

''(2) REQUIREMENT OF GOOD FAITH.—Paragraph (1) shall not apply during any period in which the Administrator (or the Secretary of the Army, in the case of a violation of section 404) determines that the unit of local government is not carrying out the compliance plan in good faith.

''(3) OTHER ENFORCEMENT.—A waiver of penalties provided under paragraph (1) shall not apply with respect to a violation of any provision of this Act other than the provision that is the subject of the agreement described in paragraph (1)(A).''.

U.S. SENATE,
Washington, DC, June 27, 1995.

DEAR COLLEAGUE: When the Senate begins consideration of S. 343, the Regulatory Reform Bill, I intend to offer an amendment to lift the unfair burden of excessive civil penalties from the backs of local governments that are working in good faith with the Clean Water Act.

Under current law, civil penalties begin to accumulate the moment a local government violates the Clean Water Act. Once this happens, the law requires that the local government present a Municipal Compliance plan for approval by the Administrator of the Environmental Protection Agency (EPA), or the Secretary of the Army in cases of Section 404 violations. However, even after a compliance plan has been approved, penalties continue to accumulate. In effect, existing law actually punishes local governments while they are trying to comply with the law.

Under my amendment, local governments would stop accumulating civil and administrative penalties once a Municipal Compliance Plan has been negotiated and the locality is acting in good faith to carry out the plan. Further, my amendment would act as an incentive to encourage governments to move quickly to achieve compliance with the Clean Water Act.

This amendment is a simple issue of fairness. Local governments must operate with a limited pool of resources. Localities should not have to devote their tax revenue to penalties, while having to comply with the law. Rather, by discontinuing burdensome penalties, local governments can better concentrate their resources to met the intent of the law in protecting our water resources from pollution.

I hope you will join me in supporting this commonsense amendment for our towns and cities. If you have any questions or wish to cosponsor this amendment, please feel free to have a member of your staff contact Quinn Mast of my staff at 4–5842.

Sincerely,

LARRY PRESSLER,
U.S. Senator.

Mr. PRYOR. Mr. President, I see no other Senator seeking recognition. I yield the floor, and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE RESCISSIONS BILL

Mr. DOLE. Mr. President, I understand we have morning business until 10:30, at which time I will ask consent that we turn to H.R. 1944, the rescissions bill, and that no amendments be in order; there be 10 minutes for debate to be equally divided in the usual form; and that following the conclusion or yielding back of time, the bill be advanced to third reading and passed and the motion to reconsider be laid upon the table.

I will make that request at 10:30. I hope we can have the cooperation of our colleagues. This is something the White House wants. We have a statement from the administration. This contains the money for the Oklahoma City disaster. It contains money for the earthquakes in California. And if my colleagues on the other side do not want to pass it, that is up to them.

We have had a lot of negotiation on the rescissions package. The President vetoed it, and we went back and tried to accommodate some of the President's concerns. Now I am advised at this last moment there may be some other political efforts made to delay the bill or frustrate the will of the majority.

I hope that at 10:30 sharp we can take up the bill under the previous considerations.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I know we are waiting until the hour of 10:30, but just for the public record, I now have a copy of this bill. This is the first time I have seen this bill.

I voted for the $16 billion in cuts when it was on the Senate side, but I want to make it crystal clear that there have now been additional cuts, for example, in low-income energy assistance. I am from a cold weather State. I want to talk about that program. I represent people in my State. Just because people are low income does not mean they do not have representation.

Just now I received a copy of this bill. There was a program that we had that was an important program—the majority leader actually helped me on this before—which provided counseling to elderly people so they do not get ripped off on some of the supplemental health care coverage to Medicare. That came out in the conference committee.

So, Mr. President, there is also a range of important programs here for dislocated people, workers with summer youth employment. I just received this bill—just received it. I have not even had a chance to look at it. I certainly would oppose any kind of a unanimous-consent agreement that said we would have a vote at a time certain.

I want to have an opportunity to offer amendments. I want to have an opportunity to talk about this. We are talking about people's lives, and there are some serious cuts in here that affect some of the most vulnerable citizens.

I would start, coming from a cold weather State, talking about the Low-Income Home Energy Assistance Program, many of whom are elderly, many of whom are disabled—we are a cold weather State —many of whom depend upon this grant. This was eliminated on the House side. We restored the funding on the Senate side, and now there have been additional cuts of over $300 million in this program—$330 million in cuts in energy assistance for some of the most vulnerable citizens.

So I think we need to have an opportunity to offer amendments, an opportunity to debate and certainly an opportunity to even go through this bill. I was not elected from Minnesota to come here and just have things rammed through. This is the first time I have had a copy of this bill—the first time. Significant changes have been made. I am a legislator. We should have an opportunity to evaluate this, and we should have a debate on what is in this.

Mr. DOLE. Mr. President, I understand the Low-Income Home Energy Assistance Program is the same as in the vetoed bill. There has not been any change in that. I do not know where the $400 million figure came from.

I want to include in the RECORD at this point a statement of administration policy, this is the Clinton administration policy, that supports H.R. 1944 as it passed the House:

H.R. 1944 provides an important balance between deficit reduction and providing funds to meet emergency needs. This legislation provides essential funding for FEMA Disaster Relief, for the Federal response to the bombing in Oklahoma City, for increased anti-terrorism efforts, and for providing debt relief to Jordan in order to contribute to further progress toward a Middle East peace settlement. H.R. 1944 reduces Federal spending by $9 billion.

I think the administration statement is in accord with the thinking of most individuals.

This matter did pass the House last night. As I understand it, there has been change in the Low Income Home Energy Assistance Program since the bill passed the Senate.

Mr. WELLSTONE. Actually it is true. The bill the President vetoed is the same. Many of us voted against that. What we passed out of the Senate restored the $1.3 billion for low-income energy assistance. Now we have gone back to over $300 million of cuts. That is a very serious issue for people in my State. I just received a copy of this. Let us take some time and evaluate what is in this rescissions bill.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAMS). Without objection, it is so ordered.

Mr. DOLE. Mr. President, I have been discussing H.R. 1944 with the Democratic leader, Senator DASCHLE. I understand now I have consent to turn to the consideration of H.R. 1944.

Mr. DASCHLE. That is correct.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR ADDITIONAL DISASTER ASSISTANCE, FOR ANTITERRORISM INITIATIVES, FOR ASSISTANCE IN THE RECOVERY FROM THE TRAGEDY THAT OCCURRED AT OKLAHOMA CITY, AND RESCISSIONS ACT, 1995

Mr. DOLE. Mr. President, I ask unanimous consent that we turn to consideration of H.R. 1944.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senate will proceed to the consideration of H.R. 1944, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1944) making emergency supplemental appropriations for additional disaster assistance, for antiterrorism initiatives, for assistance in the recovery of the tragedy that occurred in Oklahoma City, and making rescissions for the fiscal year ending September 30, 1995, and for other purposes.

The Senate proceeded to consider the bill.

Mr. DOLE. Mr. President, I also understand we will not be able to get unanimous consent that there be no amendments to the bill, so I will not make that request.

I am advised that the managers are here. We would like to proceed as quickly as possible. If there are amendments we hope the amendments will be offered with very little debate. Certainly people have a right to offer amendments. We discourage amendments.

I hope that those who want this bill passed—which will save $9.2 billion and is supported by President Clinton—will join together in defeating any amendments or tabling any amendments that may be offered.

I know there are a number of absent Senators on each side of the aisle. I must say they were never told there would be no votes today, so they left at their own risk.

In any event, I think we are prepared to proceed on the bill.

Mr. DASCHLE. Mr. President, we are prepared to proceed. While I know there are absent Senators on both sides, I think it is important we try to finish the business on this particular legislation.

The ranking member has done an outstanding job of bringing the Senate to this point, and they deserve our support for the work they have done. We hope in the not-too-distant future today we can accomplish our task and pass this legislation. I yield the floor.

Mr. HATFIELD. Mr. President, I would like the attention of the Senator from Minnesota.

Mr. President, before I engage in an opening statement, I would like to make one observation and describe a very unique situation we are in.

In this rescissions package, we have, in effect, made cuts at current 1995 appropriations counts that represents about $3 billion in outlays in the outyears.

I want to make very clear to the Senator from Minnesota and others who may be interested in this—knowing of his concern for nonmilitary discretionary programs that involve people, children, poor people, needy low-income energy assistance, other such programs—if we cannot put this bill through before we adjourn at this time, let me indicate the time program and consequences.

Anything that stalls this at this time to move on this and act upon this, puts the Senate into July 10 returning. On that date, and the day following, the Appropriations Committee will be, then, in a process of making allocations under the 602(b) of the Budget Act for 1996 accounts.

If we cannot make that $3 billion outlay action now, that means we are going to have to add that to the 1996 allocations in order to stay within the budget resolution.

What any Senator would be doing would be taking the responsibility of cutting further, deeper, into those programs he or she may be interested in, by holding up this action today, because we are not going to be able to delay the 1996 action any longer.

The House has already passed four of six out of their committee. If we cannot absorb in the 1995 period that $3 billion outlay, we will be absorbing it in the 1996. Any Senator would be compounding the very thing they are trying to defend. The Senator is creating a higher cut in 1996. We cannot escape that.

Let me say, we also lost the battle of cutting out the *Seawolf* or the B–2 bomber or something and taking that money and putting it into programs of nonmilitary. We lost that battle. We are precluded in the appropriations in our 602(b) allocations of transferring money from defense discretionary to nondefense discretionary.

Do not be misled with the idea that somehow we will face the battle on the *Seawolf* or the B–2, and we will reduce those commitments in the defense appropriation discretionary programs and be able to use them for low-income energy assistance or other welfare or people's need programs. That battle we have lost, much to my chagrin.

I want to just add a word of caution. The very things that the Senator may feel he would defend in the 1995 rescission, the Senator will compound it in

1996 by the very action of this Senate in the budget resolution and other decisions we have made. I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I fully support the statement made by the chairman of the committee. If I had my way about it, I would change this conference report in a few particulars, at least. I am only one. We have been down this road, now, twice. We spent many hours, several days, on the first conference report.

Mr. President, on May 25 of this year, the Senate adopted the conference report to H.R. 1158, the FEMA supplemental appropriation and rescission bill by a vote of 61 to 38. At that time, I spoke in support of the conference agreement even though it did not contain all of the provisions that were included in the Senate bill. In particular, a number of Members on this side of the aisle felt that the conference agreement did not include a sufficient number of the programs that were funded under the Daschle-Dole joint leadership amendment.

Nevertheless, I urged the President to sign the conference report on H.R. 1158 because it was a result of long and difficult negotiations with the other body and because it contained many important items, including an appropriation of $6.7 billion for Federal Emergency Management Agency [FEMA] disaster relief effort. These funds were to be used to finance the relief costs associated with the Northridge earthquake, as well as to address declared disasters resulting from floods and storms throughout some 40 States, including the most recent, extraordinary rains and hail which occurred in Louisiana and some other States.

With regard to the administration's request for emergency supplemental appropriations in the wake of the tragedy in Oklahoma City, H.R. 1158 provided approximately $250 million for antiterrorism initiatives and Oklahoma City recovery efforts. This included substantial increases above the President's request for the FBI, the Department of Justice, the Secret Service, the Bureau of Alcohol, Tobacco and Firearms, and the Judiciary. Included in this amount is $67 million to meet the special needs of the General Services Administration created by the April 19, 1995, terrorist bombing attack at the Murrah Federal Building.

The conference report on H.R. 1158 also provided $275 million for debt relief for Jordan—to which I object; I did not support that debt relief—as proposed by the administration. These funds would allow the President to fulfill a promise to help Jordan in its historic peace agreement with Israel.

The President chose to veto H.R. 1158 against my wishes. I do not think he should have vetoed it. But he did so for a number of reasons, which he set forth in correspondence to the Congress accompanying his veto message. Since that veto, negotiations have been ongoing between the House and Senate leadership and the Appropriations Committees. And, as a result of those negotiations, last night the House passed H.R. 1944, the bill which is presently before the Senate. In addition to all of the provisions contained in the conference reports to H.R. 1158 that I previously mentioned, H.R. 1944 also contains reductions in a number of rescissions as requested by the administration, as well as an increased appropriation for replacement of the Federal building in Oklahoma City. The total of these addbacks above the amounts contained in H.R. 1158 is $772 million. In order to offset this additional spending, new or increased rescissions are contained in H.R. 1944 totaling $794 million, resulting in additional deficit reduction of $22 million more than was contained in the conference agreement accompanying H.R. 1158.

I support the passage of H.R. 1944 because it contains $6.55 billion in emergency disaster assistance for funds for victims of various disasters, including the California earthquake and flooding throughout the Nation, and, under the Byrd amendment, the bill, if enacted, would reduce the deficit by approximately $9 billion. I do not think we ought to lose sight of that. And, moreover, the 1995 rescissions which are contained in the bill, if enacted, will result in a decrease in outlays for fiscal year 1996 of approximately $3.1 billion, just as the distinguished Senator from Oregon [Mr. HATFIELD] stated a few minutes ago.

This is so because the outlays which would have occurred in 1996 from the appropriations for which funds were rescinded will no longer be required. And this will free up approximately $6 billion in budget authority and $3.1 billion in outlays for use in fiscal year 1996—this is very important, for nondefense discretionary purposes—for nondefense discretionary programs.

As Senator HATFIELD has said, the walls are going back up. When the walls of Jericho came down, they were not rebuilt so soon, and the appropriations walls are now up again. I am very opposed to these walls, walling off defense moneys from nondefense discretionary funding, because nondefense discretionary funding will continue to take the brunt of the cuts, as it has for, now, these several recent years.

I hope we will be able to pass this bill, and pass it quickly. The distinguished chairman has pointed out, when we get back we are going to be on the appropriations bills. The House is already passing them. These rescissions will then enable the Appropriations Committee to have more moneys to allocate in budget authority and in outlays for 1996. So I hope we will not cut off our nose to spite our face.

I certainly can sympathize, however, with Senators who may be displeased with the product that we have before the Senate. But we can make it worse in the long run. I think we have to accept a reality.

Mr. President, I congratulate the chairman of the committee, Senator HATFIELD, for the tireless efforts that he has put forth that resulted in the successful resolution of the differences between the President, the House, and the Senate on these difficult matters.

As I say, I know that all Senators are not satisfied with the bill. I am not satisfied with it. But it is better than we could expect otherwise if it were to be delayed or, indeed, rejected, which I do not believe it will be.

On balance, I believe it is an important appropriation and rescissions bill that deserves the support of the Senate for the reasons that I have set forth.

Mr. President, I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I say to my colleagues, I know the Senator from Oregon also wishes to speak. I will be speaking from the floor with some difficulty because of an asthma condition, or allergy condition, and I apologize for the coughing.

Mr. President, I find myself in a position of being out on the floor with several Senators whom I deeply admire but with whom, at least for this moment, I am in profound disagreement.

I am extremely sympathetic to my colleagues, who are as good Senators as you could ever find, as accomplished legislators as you could ever find. But in all due respect, I did not vote for this budget resolution. I understand the pressures all too well. That is why I did not vote for the budget resolution. And I certainly am not someone who is in favor of putting walls back up between the domestic and the Pentagon spending.

There are two issues I want to raise at the beginning of this discussion. First of all, I did not object to the motion to proceed. I just simply said that, as a Senator, I now know, as I look at the report that has come back, that there have been some changes. I voted initially for this rescissions package. I am all for—and I understand the position of the President vis-a-vis assistance to California and Oklahoma—I am all for it.

But I am a legislator and this report came less than 1 hour ago. I cannot quite read—is it almost 11 now? This report came here at 9:55. This is the first time I had a chance to look at this rescissions package, at 9:55. I do not know about other Senators, but I do not even know what is in here. I know some of what is in here. I have not had a chance to examine this. This package, H.R. 1944, is some 120 pages long and we are just going to rush this through? Initially there was a proposal—some Senators were talking about voice voting it.

I said, from the time I came here, that on all appropriations matters, all expenditures of money, we should

never have voice votes. We should be accountable.

I feel the same way also about these cuts, about this rescissions package. This has a very real impact on the lives of people we represent. I want to talk about that impact. But above and beyond that, I say to my colleagues, 9:55 is when this came here. I have not even had a chance to examine this piece of legislation, this rescissions package.

I know enough to know what has been changed for the worse and I want to talk about that. But I just refuse to have this thing just sail through here, essentially jammed through the Senate. I do not think that is a responsible way to legislate. I feel strongly about that.

What is the hurry? We ought to examine what is in H.R. 1944. For example, I have here—this is one of the reasons that I have such fondness for the Senator from Oregon. I would say the same thing about the Senator from West Virginia. This was a letter dated May 8.

DEAR PAUL: Thank you for your most recent letter regarding the House of Representatives rescission of $1.319 billion for the Low Income Home Energy Assistance Program.

Which I voted for. Which you know I voted for.

As you know, the Senate bill did not include this rescission. Please be assured that the Commmittee intends to maintain this position during the on-going House-Senate conference.

I thank my colleague from Oregon for his assistance——

Mr. HATFIELD. If the Senator will yield, just to make certain the RECORD is correct, this bill does not change this program, so it is not for the worse.

Mr. WELLSTONE. What has happened——

Mr. HATFIELD. It is not for the worse. It is the same level as the vetoed bill. I can give you a list of the better parts of this bill, of the vetoed bill, if the Senator would be interested in that, too?

Mr. WELLSTONE. I thank the Senator.

Mr. HATFIELD. So I just want to correct the RECORD. It is not for the worse.

Mr. WELLSTONE. Mr. President, the vetoed bill is the bill I voted against. I voted for a bill that we reported out of the Senate because we had restored the $1.3 billion funding. But now we have cuts of about $330 million in funding for the Low-Income Housing Energy Assistance Program. That is now what is in this bill which just came to us at 9:55. We have $20 million of cuts. That is different from what I voted for out of the Senate. I did not vote for the bill that the President vetoed.

Mr. President, just to be clear about what is at issue here, I think it is a matter of priorities. I look at their rescissions package and I see a disproportionate number of cuts, in all due respect, that affect low- and moderate-income citizens in this Nation. I do not think it was my colleagues' choosing. But I just want to talk about some of these priorities. I am talking about restoring $330 million of assistance for low-income people.

I say to the Chair, we come from the third coldest State. One B–2 bomber costs over $1 billion. This is not even a third of a B–2 bomber. Mr. President, we have one of the finest fighting fleets of F–15's. Everybody will tell you that. We now have a proposal to replace the F–15 with the F–27 to the tune of $162 million, and an overall costs of $70 billion additional dollars. In the post-cold-war period, the Soviet Union Empire no longer existing, and the Pentagon saying we do not need some of these weapons. There are no rescissions there at all.

Later on today, Mr. President, I am going to talk about all the subsidies that go to the oil companies since we are talking about low-income energy assistance.

But President, I met at the home of Olita Larson in Richfield. She is a disabled senior citizen and a LIHEAP recipient. In addition to her, I met with several veterans, and several mothers with children. And what I learned from them is that, at least in my State of Minnesota, the Low-Income Housing Energy Assistance Program is not an income supplement. It is a survival supplement: 111,000 households receive LIHEAP assistance; 313,000 individuals; 28,000 seniors; 53 percent of those that receive this assistance which is about $300 a month or so. This is just to enable people to get by so that it is not ''heat or eat.'' Fifty-three percent were working at low-wage jobs; 32 percent were senior citizens; 41 percent were households with small children; about 50 percent earn less than $6,500 a year.

Excuse me, Mr. President, for not understanding some kind of definition of reality here in the Nation's Capital. But for the life of me, I do not understand how in the world we can be cutting low-income energy assistance to people, people who really need the assistance, people who are the most vulnerable citizens in our country, but we go forward spending $1 billion on B–2 bombers that the Pentagon tells us we do not need. We have billions of dollars of subsidies to oil companies. We do not choose to close those loopholes.

Mr. President, these are distorted priorities. Just because Olita Larson does not make big contributions, just because she is not well-connected, just because she is not a player does not mean she should not be represented.

Mr. President, I met at the home. I am not going to cave in right now. You meet with people. You talk with people. You make a commitment that you are going to do everything you can to support people. And that is where I thought we were. That is why I originally voted for this rescissions package. Now what we get H.R. 1944 from the House, which comes at 9:55, I find out that we have over $300 million of cuts.

Mr. HATFIELD. Will the Senator yield for a question?

Mr. WELLSTONE. Certainly.

Mr. HATFIELD. I thank the Senator.

Is the Senator aware that the B–2 bomber was killed last night by the Armed Services Committee? According to this morning's paper, the committee voted not to fund any additional B–2 bombers, which I hail as a great achievement. But I would also like to add there is no way we can take the savings of that B–2 bomber and transfer it into nonmilitary discretionary programs. We, on the Appropriations Committee, have our hands tied on that. I could not agree with the Senator more. I will not take a back seat to the Senator nor to any other Senator in fighting for the Low-Income Housing Energy Assistance Program, and all these other programs that represent people's needs.

But what I am saying to the Senator is that this speech is a little late. It should be repeated and repeated. But I am saying it is a little late as it relates to the current issue we have before us. The die is cast. What are we going to salvage out of this circumstance? I say to the Senator in all respect, that, if this is not acted upon today, the Senator will have led the appropriators and forced the appropriators into cutting $1.3 billion out of the subcommittee on Labor-HHS for 1996, over and above what we would otherwise have to do. If the Senator wants to take on that responsibility, keep that in mind. You are hurting the very people you are trying to help. That is not your making. It is not my making. It is the decision of the total body of this Senate, and we lost. We lost. But do not compound that terrible, terrible thing onto those very people by saying to the appropriators you have to cut another $1.3 billion. I say to the Senator with all due respect, that is reality. That is the reality we face.

I find it a very, very unpleasant experience to have to cut any out of the Labor-HHS subcommittee of appropriations. The House cut $10 billion from, $70 billion and $60 billion. We are going to be forced into allocations to cut further, if we do not get this passed today. That is the reality. Like it or not, that is the reality. That is the position the Senator from Minnesota is pushing the Appropriations Committee into. I do not want any part of it. I am wanting to ease the pain that we have already created. I do not want to increase them, and the Senator from Minnesota will be escalating that burden on the very poor of this Nation by $1.3 billion more out of the Labor-HHS that we do not get out of 1995.

Mr. WELLSTONE. Mr. President, I still have the floor. Let me just say that, first of all, one more time, I did not vote for the budget resolution. I did not vote—later on today when we get into the discussion—I did not vote for the tax cut. The Byrd rule I think protected us over the first year. I am not at all sure ultimately, as I stretch

this out and project where this heads. This is the first time we have actually seen the rubber meet the road and some real decisions made that ultimately this money in the outyears is not eventually being used to finance tax cuts for fat cats in this country, frankly. But let me say to the Senator from Oregon, and I would like to proceed here, that in terms of the choices, about 60 percent of the administrative travel funds are in the Pentagon. We can make some further cuts there. We can also do the same thing with FEMA. We can make some cuts there. So I do not think it is quite true that there are no choices.

In addition, Mr. President, I just simply want to go back to what I have been saying. I thought, though it was a close call for me, that my colleagues did an admirable job, a very admirable job given the constraints they were working under, so we passed this rescissions package. I had some questions about it, but I voted for it.

Then the House goes to work and the President vetoes the conference report, and I support the President's veto. Then we get H.R. 1944 that comes here at 9:55. I have not even had a chance to examine this. I just refuse to be put in the position that somehow what I am doing right now is going to hurt low-income people.

If I could just finish this, I will be pleased to yield. I have over and over again been talking about this. Now, I do not know where other Democrats are. I know that 150 Members of the House voted against this package yesterday, last night. I could just simply tell you that I think these are distorted priorities. I think there are other areas that could be cut that are not being cut. I think we are asking some of the most vulnerable citizens in this country to pay a price by tightening their belt when they cannot tighten their belt.

Ms. MOSELEY-BRAUN. Will the Senator from Minnesota yield?

Mr. WELLSTONE. I will be pleased to yield.

Ms. MOSELEY-BRAUN. I thank the Senator. I say to the Senator from Minnesota and the distinguished Senators from Oregon and West Virginia, I cannot think of three people for whom I have more respect in this body, but I have to say I concur in and associate myself with the remarks of the Senator from Minnesota.

I want to say that in listening to the debate and the argument about the harm that we are doing, or might be doing, by taking the floor in opposition to this conference report, this resolution, I could not help but think about the old poem—and I think the Senator from West Virginia may remember this one—a poem from many years ago about: Lizzie Borden took an ax and gave her mother 40 whacks, and when she saw what she done, she gave her father 41.

It seems to me that if you boil down the argument that the distinguished Senator from Oregon has made about what we are doing right now in this procedural setting, it is suggesting that the 40 whacks the children and poor people have taken in this bill, in this compromise, might be increased to 41 if we do not sit back, accede to the decision of the conference committee, be quiet, say nothing and let this roll out of here on a moment's notice without examination or discussion.

I just do not think that is an appropriate response for conscientious legislators who have real concerns about this bill.

The Senator from Minnesota has talked about the low-income heating issue. I particularly am concerned about education and what has happened with the education funding for needy people, needy children, in this bill.

I am not going to debate it, and I do appreciate the efforts that were made to restore education funding in this compromise, but I have to submit to you that the rescissions were not called for in education in the first place. Why would we, at this critical time in our Nation's history, do anything but begin to weigh in 100 percent to help support education, to give our youngsters the ability to compete in this world economy, to guarantee for this next generation that they will be able to compete in this world market?

I want to point out specifically that in this compromise, the title II-C JPTA funding for poor children who are in disadvantaged circumstances was cut $272 million, cut down to now—out of $398 million, which it was in the previous budget, to $126 million. That is a cut of $272 million for job training for disadvantaged young people.

Well, you go out on the streets, at least in the State that I come from and young people are wondering what we are doing to help them. They want to be productive. They want to get the job skills and the literacy skills and the educational skills to be able to participate in our society, and this bill would just cut them off altogether. And to shut down activities that are working to stop school dropouts in order to give young people a hand up, to cut them by $272 million is just, in my opinion, unconscionable.

I do not know how we can justify that on the grounds that, well, if we do not do it now, we will not have a chance again until after July. And if we do it in July, the money will not be freed up for appropriations and spending and then they will have to give them 41 whacks in September.

Mr. HATFIELD. Will the Senator from Minnesota permit the Senator from Illinois to yield for just a moment?

Mr. WELLSTONE. Mr. President, with the understanding I have the floor, I will be pleased to have the Senator yield for a question.

Ms. MOSELEY-BRAUN. Always, so long as it is yielding for a question.

Mr. HATFIELD. I say to the Senator, I was giving those speeches 25 years ago on this floor, and it was valid then, and it has been proven to be more valid today, as the Senator gives the same remarks about our priorities—our lack of priorities—our failure to put the focus where the needs are by our overwhelming lust and willingness to vote for greater capacity to destroy life than to sustain and improve life, namely the military versus the nonmilitary spending.

But in all due kindness and respect, I ask the Senator, what is the option? I ask the Senator to put herself in my shoes and tell me what she would do as of this moment in this timeframe with 1996 upon us and having to make that decision, and every day we lose the money, the baseline in the rescissions—right or wrong rescissions—every day we lose that money. We come back here July 11, and it is all over. We will have not had this action.

Now, in that timeframe, what is the Senator's option or alternative that she would take?

Ms. MOSELEY-BRAUN. I say to the Senator from Oregon, again for whom I have a tremendous amount of respect, and I know he has been on the right side of history for these 25 years trying to make this case, but it is a case that we have to make, it seems to me. And in response specifically to the Senator's question, I do not have an answer. We just got the bill 1½ hours ago. We have not had a chance really to even go through to see where the shifts and the changes might be. We are not on the committee.

And please understand, I say to the Senator from Oregon and the Senator from West Virginia, no one is unmindful of the hard work that the Senators have done and the dedication and the long hours trying to hammer out a compromise. But compromise by definition means that some priorities get lost in the shuffle.

I just submit—and the Senator from Minnesota submits—that the days in which we can continue to allow the children of this Nation and poor people who need heating assistance to get lost in the shuffle are over. We cannot afford to continue down this path.

Our Nation's greatness depends on our capacity to allow individuals to contribute to this society and to function within it. No economy on this planet in this time is going to be healthier or be able to succeed more than the social fabric of what that nation will allow. To the extent that we allow Senator WELLSTONE's constituent to have to choose between turning on a gas burner in her house and eating dinner, we weaken our entire national fabric. To the extent we allow these teenagers to drop out of school and to stand on street corners, not only do we increase the crime rate, not only do we diminish the quality of life in our communities, but we have done serious injury to our national fabric as well.

And so the only response I would have for the Senator, since we have only had 2 hours, maybe 1½ hours, to

look at this, is to say to the Senator from Oregon we do not have all the answers.

I was going to talk about another set of cuts—the majority leader just entered, and I know he knows of my interest in this particular issue—education infrastructure. We have schools crumbling around this country. There have been articles in every magazine, every newspaper, about the state and quality of our schools that our youngsters——

Mr. HATFIELD. Did I hear the answer to my question is the Senator does not have an answer?

Ms. MOSELEY-BRAUN. I say, in answer to the Senator's question, I have not had time to give the Senator an answer because we just got the bill 1½ hours ago. I will be delighted, and I take the challenge——

Mr. HATFIELD. I say to the Senator, that is not the question. I got the bill, too, the same time the Senator did. That is not the question I asked. I asked, what in this timeframe would the Senator instruct me to do? I am happy to hear any new idea that gives me an option, and I am just asking the Senator, other than protesting this particular time and this particular action, which I agree with the Senator, but tell me, as chairman of the Appropriations Committee, what the Senator would do today.

Mr. WELLSTONE. Mr. President, if I could just——

Mr. HATFIELD. Let her have a chance to answer.

Ms. MOSELEY-BRAUN. What I would do today is I would put together legislation that does not take those 40 whacks out of children and poor people.

Mr. HATFIELD. Well, I say to the Senator, that is a fine statement, if I could——

Ms. MOSELEY-BRAUN. Let me give specific dollar numbers. We want to restore $272 million.

Mr. HATFIELD. That is not an option today. This body already passed the budget resolution. You may not have voted, I say to the Senator, for the budget resolution, but the body did. I have to function under the body, not under how I voted, but under the body's decision. So what is the option——

Mr. WELLSTONE. If I can——

Ms. MOSELEY-BRAUN. Again——

Mr. HATFIELD. This must be a protest statement, which is perfectly legitimate, and I join in addressing the protests both Senators are making toward the priorities in this budget, but that is not our option today.

Ms. MOSELEY-BRAUN. May I respond?

Mr. WELLSTONE. Then I would like to get the floor back.

Ms. MOSELEY-BRAUN. I thank the Senator from Minnesota. I had not intended for this to become a colloquy with the Senator from Oregon. I can tell he is upset because time is upon us. He put in a lot of work. I certainly appreciate that and understand that and understand his frustration with having the Senator from Minnesota and myself standing here and saying, ''Well, this is not quite good enough.''

But let me tell you, in response to the Senator from Oregon, we start off with a situation in which we are now being told, because of the procedure, that this is a fait accompli; that there is nothing we can do about this; that it has been served up to us a couple of hours ago based on a decision that happened 2 weeks ago, based on some decisions that were made a month ago; and that this train has gone too far down line for us to do anything about it.

I say to the Senator from Oregon that at a minimum, if I am going to be Polly Pure Heart run over by a train, I do not have to do it quietly. I can at least stand on this floor and make the point that it is wrong to cut job training for disadvantaged young people by $272 million, and it is inappropriate at this point in time, given the status of our Nation's schools, to cut $35 million out of education infrastructure. And it is wrong, in any event, to cut heating assistance for poor people in cold climates in communities all over this Nation.

If I am going to be run over by this train, I say to the Senator from Oregon and the Senator from West Virginia and to anybody else who is listening, at least I can yell out about what is about to happen to me. I go back to my 40 whacks. It may be that I am asking, I am begging to get 41 whacks next month by making this point. But it seems to me that the worst thing we can do in this situation is to stand by and say nothing. And if we stand by and say nothing as these cuts occur, if we stand by and say nothing to cuts in low-income heating and cuts in disadvantaged youth job training—disadvantaged youth job training programs, how can anybody, red pencil notwithstanding, sit back and say, ''No, we want fewer job training opportunities for already disadvantaged teenagers''? This is just not logical to me.

The Senator may be absolutely right. If we have a vote on the motion by the Senator from Minnesota or myself, whatever, we may lose, but it seems to me——

Mr. HATFIELD. Will the Senator yield?

Ms. MOSELEY-BRAUN. I cannot yield. I yield back the time to the Senator from Minnesota.

Mr. WELLSTONE. I will be pleased to yield, if I can have 1 minute, and then I will yield for a question.

Mr. HATFIELD. I will be happy——

Mr. WELLSTONE. I ask my colleague from Oregon to yield for a question?

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank the Chair. Mr. President, just to kind of sort this out for a moment, I am in complete agreement with not only what my colleague from Illinois had to say but with the eloquence with which she said it. Absolutely, we did not know what was going to be in this bill, I say to my colleagues, until late last night—10 o'clock. We just received this at 9:55 this morning.

Second of all, I do not view this as a protest. My distinguished colleague from Oregon talks about it is a protest. I am prepared to debate. I will have amendments, and I am prepared to debate those amendments, and I am prepared to have a vote on those amendments.

This is not something like all of a sudden I have become interested in. My colleagues all know of my strong commitment to LIHEAP. They all know that I think it is unconscionable that we are making these cuts. I feel very strongly about the Summer Jobs Training Program.

Mr. President, when we first finished up on the Senate rescissions bill late at night, with some assistance from the majority leader, we restored funding for a counseling program for senior citizens to make sure that they do not get ripped off in some of the supplemental coverage that they get to their Medicare. Now we are going to have all these cuts in Medicare and Medicaid—and this is great, I suppose, for some of the insurance companies for there not to be this consumer protection—but we are now going to go back to cutting, I think it was, $5 million—only $5 million.

What is the purpose of cutting a counseling program for senior citizens to provide them with basic consumer protection? That is in, as it turns out, H.R. 1944, passed late at night, just sent over here today.

So, Mr. President, I want to be crystal clear, this is not like something we just started saying.

I read the other day in the paper about a general having a plane sent across the country to pick him and his cat up, at a cost of over $100,000 a year. Is that the kind of travel we are funding? I say to you, we have it within this budget, we have it within our power, within this bill to actually take more out of that administrative and travel budget from the Pentagon. We can do that. I have talked about FEMA. There are plenty of alternatives.

But, Mr. President, first, let us just get back to the process. It is pretty hard for us to sort of lay out all the alternatives until we, first of all, know what is in this bill; and second, do not tell me that upon some time for deliberation and some time for discussion and some time for debate on amendments, we cannot come up with alternatives. Of course, we can come up with alternatives. This is not in concrete. Who said this is the day, that this is it, there cannot be any changes, we cannot make any changes at all, especially if we feel very strongly that there are some real distorted priorities?

I can only speak for myself, but I really do not understand the priorities

which say we go headlong with increases in the Pentagon budget, we have massive tax cuts, $245 billion, most of them going to wealthy people, and we are going to cut low-income energy assistance in the State of Minnesota.

I say to my colleague, I may lose on this amendment, but I will not be silent about this, and if I lose, I will go down fighting, not on the basis of just some principle or some protest, but because I am a legislator and I know there are alternatives and I know as we have a discussion of this, we will get to those alternatives.

But I just, again, have to say—I so appreciate what my colleague from Illinois said—here we are talking about children. We all love children. We all want to have photo opportunities with children, and we cut job training programs for young people, and we cut low-income—LIHEAP is not coming anywhere close to meeting the needs of those people that are eligible. And now we are going to have additional cuts in the Low-Income Home Energy Assistance Program?

I come from a cold weather State. Sometimes it is 20 below zero, sometimes it is 40 below zero, sometimes, as the Presiding Officer knows, it can be 70 below zero wind chill. But for many of the most vulnerable citizens in Minnesota, this can be terrifying—this can be terrifying.

Mr. President, I think that I went over these figures today, and I can give some figures for other States as well, but in Minnesota, 37 percent of the households are working poor; 15 percent have a disabled household member; 26 percent of the households have an elderly household member; 33 percent of the households have a child of 5 or younger, and I can go on and on.

When I met with Olita Larson in Richfield, and others, I made a commitment to them to fight hard for this program. I have been doing that all along. I do not come to this just now.

So what we have here is a rescissions package that just came over. Some of the initial good work that we did in the Senate has been undone with cuts where there were not supposed to be cuts.

Mr. President, I have to raise questions about the whole priority of this. I would be pleased, eventually, to get to amendments and to have discussion. I have the average fiscal net allotment and average heating and cooling benefits for households assisted by State and region for fiscal 1993. I am prepared to go through these figures and talk about what this means in human terms.

Mr. BYRD. If the Senator will yield, nobody in the Senate believes more than I believe in the freedom of speech in the Senate, and in the right to debate, and the right to stand on one's feet and speak as long as one has breath. I have fought that battle many times. I respect the fact that the distinguished Senator from Minnesota is protesting at this point and is speaking with great feeling. He speaks from the heart. He is doing his very best to represent his constituents. He is displeased with what he sees happening in connection with appropriations. I respect the right of the distinguished Senator from Illinois to do the same. And I am perfectly willing to sit here and listen to the Senators.

But if the Senator will allow me, let me point out that I, too, voted against the conference agreement yesterday in the budget bill. I have spoken out against the tax cuts. I oppose the tax cut that our own President is advocating. I oppose the tax cut that the Republicans are advocating. I am against any tax cut at this particular time. We are just digging the hole deeper when we have a tax cut and we say we want to get out of that hole that represents the budget deficit. So I am against the tax cut. I voted against the conference report yesterday. Several Democrats voted against it because of the tax cuts that are likely to result from that agreement.

But, Mr. President, I say to the two Senators that this agreement before us is better than the one that the President vetoed. I do not agree with everything that is in this package—not by any means. But the President himself says he will sign this bill. He vetoed the first one. He says the changes that have been made will bring about his signature. So if he is not satisfied with it, he is at least going to sign it.

Now, Mr. President, I merely urge the distinguished Senators, if they feel compelled to offer an amendment, that they offer it, and let the Senate vote on it today. I hope they will not offer an amendment, but I recognize their right to do so, and I will protect their rights to do so as far as I can. I just suggest that they offer the amendments and have their go at it. But it takes a majority to carry an amendment. I do not believe they are going to get that majority. Nevertheless, they have the right to offer amendments. I have been in the position several times in my long service here of offering amendments and seeing them defeated—amendments about which I felt as strongly as any Senator could feel. But when I felt I had done my best, I got up off the carpet, dusted myself off, and went on to the next battle.

I recognize the Senator's right to speak and his right to offer an amendment. I urge the Senators not to force us into a delay that puts us over the holiday, because I can assure the Senator that if that happens, we are going to be much the worse off. We will have less money and budget authority. We will have less outlays, and we are going to regret that if we do it.

So I hope we will offer any amendment that we feel compelled to offer, speak on it, and let us vote on it. Let us not delay this matter so that it is still before the Senate when we return, because we will have lost and lost badly. Let me say this with the greatest of respect. The Senator has not seen anything yet. This is just a drop in the bucket to the cuts that are coming. I am on the Armed Services Committee, and——

Ms. MOSELEY-BRAUN. Will the Senator yield?

Mr. BYRD. I do not have the floor.

I am on the Armed Services Committee, and I got rolled a couple of times in the committee yesterday. The Republican side in that committee is voting in lockstep. They are unanimous, and there is no way that 10 members on our side of the Armed Services Committee can outvote 11 members on the other side. So we might as well get used to it. We will not get used to it without protesting, and I will be protesting some, too. But I merely make my plea on the basis of at least getting on with this matter today, disposing of it, and getting up off the carpet and dusting ourselves off and getting ready for the next battle, which we will probably lose again. There may be some we will win. I appreciate the Senator's allowing me to make these remarks and for his yielding. I respect his right to speak, and I respect his right to offer an amendment, and I respect the way he feels. I hope he will finish his speech, but if he has an amendment, offer it and let us vote.

Mr. HATFIELD. Will the Senator yield for a minute?

Mr. WELLSTONE. Yes, I yield.

Excuse me, I yield for a question or comment, but I will retain the right to the floor.

The PRESIDING OFFICER. The Senator is correct.

Mr. HATFIELD. Mr. President, I wonder if the Senator was aware of the specifics that have been extrapolated, that increased in this particular new rescissions package: Adult job training, by $40 million; school to work, another $20 million; Goals 2000, by another $60 million; safe and drug free schools, $220 million; drug courts, $5 million; community schools, $10 million; TRIO, $11 million; child care block grant, $8 million; housing for people with AIDS, $15 million; national and community service, $105 million; safe drinking water, $225 million; community development financial institutions, $14 million; community development grants $39 million, for a total of an add-back of $772 million over the first rescissions package.

That is after weeks of working with the White House, after working with our colleagues in the House of Representatives. Sure, the glass is half full or half empty, depending on what you look at.

Again, there has not been a word said about the Senator from Minnesota or the Senator from Illinois that I would not endorse 100 percent. My views precisely. But let me also say to the Senator that he has talked about low-income energy assistance. No one has gone cold for a lack of money in that account. We do not predict the weather ahead. What we do in the appropriations is we set forth $1.3 billion in 1995

appropriations for low-income energy assistance for this coming winter. We cannot predict that winter. Anytime in the past on the record where we have had less money than required to keep people warm, we have appropriated a supplemental.

So the fear that the Senator is expressing on the basis of the figure here is not a justified fear. We appropriate supplementals.

Now, let me say also to the Senator that in dealing with the White House, they had a higher figure for low-income energy assistance rescission than we had that they were willing to have rescinded. Was it because they were interested in people of low income? Not at all. They understood the funding mechanism. They knew that we would always put that appropriation out there in a supplemental form to keep those people warm.

Therefore, that money was not yet obtained because we had no knowledge of the requirement of the amount of that money.

I can say to the Senator, I participated in that time after time, leading the battle, in some instances, of putting that money in the supplemental to keep people warm. We cannot predict what that winter weather is.

The Senator said a while ago he might lose on this. No, the Senator will not lose. The people of Minnesota will lose, the people of Illinois will lose, and anybody else who blocks this action at this time.

Again, the fundamental bottom line that the Senator cannot escape—I cannot, the Senator cannot—is requiring the Appropriations Committee to gut $1.3 billion more in the 602(b)'s for 1996 if we do not pass this and get this acted upon today.

Ms. MOSELEY-BRAUN. Will the Senator from Minnesota yield?

Mr. WELLSTONE. I am happy to yield to the Senator.

Ms. MOSELEY-BRAUN. Actually, there are a couple of comments, and when we get into a colloquy like this, it is sometimes difficult to know what to respond to first.

I have to point out to the Senator from Oregon, and even the Senator from West Virginia, it is very difficult to debate someone who has been on the right side of these issues for so long and who cares about them, as I know that the Senator from Oregon and the Senator from West Virginia do.

However, I will point out that back home, we have an expression, ''If you are being chopped to death with an ax, you don't let them do it to you in the closet, you go out on the street corner.''

Quite frankly, with regard to these cuts, I think it is not only appropriate, but I think it is essential that Senator WELLSTONE, the Senator from Minnesota, myself, and any other Senator who cares about these issues, come out and talk about what we are doing here.

The Senator read off the numbers in terms of what we put back. I think it is important, also, to remember—and I wish I could remember the numbers but I do not have my glasses with me right now—to talk about what was cut to begin with.

The fact is, these are meat ax cuts. They start off as meat ax cuts, and they are a little less—no question—they are a little less bad than they were previously.

But that still does not mean that we should not take to this floor and talk about why it is important to restore the $272 million that was cut out of the JTPA Program, or the dollars that were cut out of heating, or the dollars that were cut out of the education infrastructure program to help start trying to fix some of the falling down, broken down schools across this country. We have to be able to talk about these issues. It is not symbolic.

Frankly, I say to the Senator from Oregon, I find it more distressing—no one is trying to be uncooperative—I find it more than a little distressing that the Senator from Minnesota and I will be told, ''If you go out here and talk about issues you care about, then you are in danger we will do it even worse.''

I started off talking about Lizzie Borden. The more this debate goes on, that is exactly where we are, Senator WELLSTONE. The threat is, if we do not go quietly down this primrose path, we will get 41 whacks after July.

I just do not think that is what the people of Illinois sent me here to do—the people of Illinois or the people from Minnesota, or anywhere, if they knew what we were doing to people concerns, human concerns.

Is there a way to predict and to make the offsets, the question was asked of me earlier? I could not respond, because we just got this bill a couple of hours ago.

The fact is that we have given FEMA, our emergency management organization—and they do a great job, by the way—we have given them more money than they say they need. We could fix schools and we could provide for job training for disadvantaged youth, education infrastructure, and heating assistance out of the FEMA money alone.

What are we looking at here—they say they need $1.3 billion and they got $3.2 billion. There you go. If you want to start, talk to FEMA and see how much more they can give up. There is a place to offset.

Certainly, to take any cuts from disadvantaged young people when we are dealing with teen criminal activity, teen sexual activity, the explosion of illegitimacy, right down the list, things we talk about on the floor, and then turn around and cut job training for teenagers, I do not understand.

Education infrastructure—kids going to schools with broken sewer pipes. How are they supposed to learn? Is that not critical to the future of this country? Why are we taking anything from there—not to mention heating.

The Senator from Minnesota has been more than gracious and indulgent. I say to my colleagues and the Senator from Oregon—and I understand the Senator has a job to do, and this is saying we just have to go on down this track because everybody wants to go on vacation. That really is what this debate kind of is about. Senator BYRD, I worked every single day of last week, and I look forward to it.

Mr. BYRD. The Senator does not have a thing on this Senator when it comes to work.

Ms. MOSELEY-BRAUN. I know that is true. I understand everybody here wants to go home, and it is hard to be the one person standing up saying, ''Well, let's not quite go home yet; we should talk about what we are doing.''

Mr. BYRD. I am in no hurry to go home, but I want to make this point, if the Senator will yield.

Mr. President, I ask that the Senator be permitted to yield to me without losing the right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I say to the Senator, this is the bottom line: If we pass this bill and it becomes law, the Appropriations Committee will have $6 billion more in budget authority and $3 billion more in outlay for the 1996 appropriations bill, which will help the very programs, I am sure, that the Senators and I feel so strongly about.

If we do not pass this, the Appropriations Committee is going to have $6 billion less in budget authority when we start marking up those bills after we come back—$6 billion less in budget authority and $3 billion less in outlay. I hope the Senators will please keep that in mind. That is the bottom line.

We may not be happy with this. The President has said that he will sign it. He feels that he has gained over what was the bill that was vetoed some time ago. And he has. The Senator from Oregon just read the list of decreased rescissions.

I plead with Senators that it means heavier losses in your programs and my programs, when we mark up the 1996 appropriations bill, if this bill dies.

Ms. MOSELEY-BRAUN. This bill would terminate the education infrastructure program. Zero dollars in this rescission bill—zero dollars.

Mr. BYRD. Mr. President, wait until the Senator sees the bills that are going to come to this floor if this bill dies. Wait until the Senator sees the cuts that are going to be made if this bill dies.

The cuts that are going to be made in the 1996—the Senators will come back and read what I said in the RECORD, if the Senators insist on killing this. The Senators will read it. The Senators will see that this is just a drop in the bucket.

Mr. WELLSTONE. Mr. President, just——

The PRESIDING OFFICER. A reminder that the Senator can yield for

questions only during the course of this debate.

Mr. WELLSTONE. Mr. President, just one more time, to summarize. We received this bill at 9:55. That is not even 2 hours ago. I did not know everything in here.

I am perfectly willing, as I said before, I did not object to the motion to proceed. There have been a lot of questions that have been put to me. I am more than willing to go forward with amendments and debate. I need a little time to look through this bill.

But, Mr. President, when my colleagues talk to me about this being just the beginning, I am well aware of that. I did not vote for these budget cuts. I did not vote for these ceilings. I did not vote to increase money for military contracts.

Again, the other day in the paper, the story in the paper about a general having a plane sent across the country to pick up him and his cat at a cost of $100,000—that is out of the travel and administrative account.

I did not vote for that, Mr. President. These are distorted priorities. And my colleague from Illinois kept saying—and I understand the Senator from Oregon and the Senator from West Virginia have done their best within these boundaries that have been set by the votes that are here right now. I know that.

But, in all due respect, we do not, in that budget resolution, decide we are going to take on any of the loopholes, deductions, subsidies—for example for oil companies. But we are going to cut the Low-Income Home Energy Assistance Program for seniors, people with disabilities, and children. And, in addition, summer jobs training programs. And, in addition, infrastructure—some small investment in infrastructure in schools. What kind of message do we send to children about whether we have any hope for them or what kind of value do we attach to them when the ceilings—the buildings are decrepit and the plumbing does not work and all the rest. We cannot even begin to make any kind—we are going to cut expenditures in that area?

Ms. MOSELEY-BRAUN. Will the Senator yield?

Mr. WELLSTONE. I will be pleased to yield in just a moment.

Mr. President, I worked hard. I had support from colleagues for a counseling program for elderly people, to make sure they do not get ripped off on supplemental coverage from Medicare. That, now, gets cut again. My colleague from Oregon talked about the good things that have been done. Fine, I agree and I am glad.

But he did not talk about some of the areas that have now been cut as opposed to the original rescissions bill. I only found out about what has been cut because I have had a little bit of time, just a little bit of time to go through this. What is the hurry? What is the hurry? I am pleased to go through this and I am pleased, today, to introduce amendments. I am pleased to have debate on those amendments and up or down votes. But I will tell you, I will have an amendment to restore that funding for the Low-Income Home Energy Assistance Program.

Mr. DOLE. Will the Senator yield on that point?

Mr. WELLSTONE. I will.

Mr. DOLE. When are you going to have the amendment? That is what I would like to find out.

Mr. WELLSTONE. I say to my colleague, I will be ready to go with that amendment—A, I have been responding to questions and comments from other Senators. I would like a little bit of time to look through this to get all my amendments together. But I will have amendments and we will have debate.

Mr. President, I say to the majority leader in all due respect, this bill came here at 9:50. It was passed last night at 10 o'clock, in the House.

I am not going to let this be jammed down my throat and I am not going to let it be jammed down the throats of a lot of very vulnerable people in my State. I will examine this. I am more than willing to have amendments—I said this to the majority leader—and we will have debate on those amendments and I am pleased to vote up or down. Absolutely.

Mr. DOLE. Mr. President, will the Senator yield further for a parliamentary inquiry?

Mr. WELLSTONE. I will be pleased to.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, will the call for the regular order return the regulatory reform bill?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOLE. I just say to the Senator from Minnesota, I am not going to be here all day while he is doing whatever he is doing. He has every right to do that, but I have listened very carefully to the two managers of the appropriations bill and I think they are trying to be helpful here, saying they are going to have less money if this is delayed.

The President wants this bill, so I ought to be happy if he does not get it, I assume. That would be the conventional wisdom around this town. He says he wants it. He has written a letter. He sent up a statement. He has added $700 and some million he said he wanted to add for the very programs that have been addressed by the two Senators.

But it is a little late in the day for game playing. If the Senator is going to offer amendments, offer amendments. If not, as soon as I get the floor, this bill is finished. It is finished. And it will not be brought up again until there is consent to bring it up without amendment and you explain to the people in Oklahoma City and you explain to the people in California and you explain to the people in Minnesota how you lost money on low-income home energy assistance because you would not let this bill pass.

You have every right to object. You are doing a good job of it. That is your right.

But I do not intend to tie up the entire Senate here the rest of the afternoon while somebody out here is making whatever argument they want to make.

We will bring the bill back as soon as the administration convinces the Senators from Illinois and Minnesota that this is a good bill.

If the Democratic President cannot convince the Democrats, certainly we cannot convince the Democrats.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I say to the majority leader in response to his characterization of the Senator from Minnesota doing whatever he is doing, what I am doing is being a responsible legislator. This bill came to this Chamber less than 2 hours ago. I would like to have the opportunity to examine this bill. I have already spoken about areas where I am prepared to introduce amendments and to have debate.

There are no games here. I do not think it is a game to speak in behalf of low-income people in my State who are really worried that there will not be low-income energy assistance available for them. I do not think it is a game to raise questions about what happened to the counseling program for senior citizens to make sure they are not ripped off on supplemental coverage to Medicare.

I just realized, going through this, that now has been cut again.

I do not think it is a game—Mr. President, I do not think it is a game to talk about what is going to happen to displaced workers. What is the significance of those cuts?

Ms. MOSELEY-BRAUN. Will the Senator yield?

Mr. WELLSTONE. I will be pleased to yield in a moment.

Mr. President, we have now zeroed out a program for homeless vets. It was not much of an appropriation, but it was important. I do not think it is a game to go through this piece of legislation and to highlight that and raise questions about it.

I do not think any of this is a game. But what I find so interesting about this rescissions package is that so many of the cuts seem to be based upon the path of least political resistance. We did not go after any of the wasteful military contracts. In our budget resolution we did not go after any of the subsidies for oil companies. And, in addition, we have $245 billion of tax cuts mainly going to the wealthy people. And I have no assurance, by the way, over the years, as I project this, that most of this money will not be used to finance tax cuts for fat cats in our country, taken away from the people who are the most vulnerable. This is no game.

I would say to the majority leader and to my colleagues—and I will be pleased to yield for a question—that I think it is a matter of priorities and it is a matter of what we stand for. It is a matter of what we stand for.

Before we just get a little bit too generous with the suffering of other people, do we not have an opportunity to look at what is in this? Do we not have a opportunity to talk about some alternatives?

Just speaking for myself, just let me make it crystal clear—crystal clear—I can take a short period of time and I can look through this and I will have amendments and I am ready for debate on amendments.

I say to the majority leader, if I had wanted to stop this I would have objected to the motion to proceed. We have had a discussion about what is in here, about where the cuts have been, about other priorities. I am just speaking as a Democratic Senator from Minnesota. I know what low-income home energy assistance means to people in my State and I know these cuts are cruel. I did not vote for this budget resolution. I am going to be an advocate for those people. And I do not care if they do not have any money to contribute to campaigns. I do not care if they do not have any lobbyists here. I do not care if they are not the heavy hitters, or are not the players, or are not well connected. I do not care if they are without a voice. They deserve representation. This Senator thinks the cut we had in the Senate bill before is cruel. I will have an amendment to restore that cut, and we will have a debate on it. There were many Senators who supported it the last time. And I hope to have support from Senators again.

I am pleased to yield for a question.

Ms. MOSELEY-BRAUN. The Senator from Minnesota was talking about the suggestion was made that somehow this was—-

Mr. WELLSTONE. I yield the floor to the Senator.

Ms. MOSELEY-BRAUN. Thank you very much. I thank the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Ms. MOSELEY-BRAUN. Thank you very much, Mr. President.

I say to the majority leader that no one is trying to be obstreperous.

Mr. BYRD. Mr. President, I call to the Senator's attention that under the rules a Senator cannot yield the floor to another Senator.

Ms. MOSELEY-BRAUN. I seek recognition.

The PRESIDING OFFICER. The Senator is correct. In the opinion of the Chair the Senator from Minnesota yielded the floor, and the Chair recognized the Senator from Illinois.

Ms. MOSELEY-BRAUN. Thank you very much, Mr. President.

Mr. President, to the Senator from West Virginia, the suggestion was made that somehow or another we were just kind of fooling around here, and it seems to me that it really flies in the face of what is involved, and why this is so deadly serious. And to the Senator from Kansas, I consider the cuts in the JTPA title II program for disadvantaged youth very serious business. We are talking about $272 million less for a program that serves economically disadvantaged 16- to 21-year-olds. These are the kids that we have a chance to save. We have a chance to get them educated, to give them a way out, to give them jobs.

Specifically, you are talking about kids who are—well, I will just read it. Who is involved with this program? They are youngsters who are basic skills deficient, school dropouts, pregnant or parenting kids, disabled kids, homeless and runaway youth. I mean if we are going to take $272 million out of their hide and not look for other ways, assuming that we have to deal with the issue of deficit reduction, the Senator from Kansas knows I support it. I supported a balanced budget amendment against the wishes at the time at least of my President in large part because I know we have to get on a glidepath to fiscal stability.

So deficit reduction is very important to me. But one of the reasons we are out here this morning is that, if we get off on the wrong foot in deficit reduction, we will be crippled thereafter in trying to achieve it in a way that does not destroy the fabric of this Nation. That is why these issues are so vitally important. If we start off assuming that it is OK to let the Federal Government pay for generals and their cats to fly around, but we do not support funding for job training opportunities for 16- to 21-year-old disadvantaged young people, what kind of way is that to balance the budget?

Here we are cutting, zeroing out efforts to provide money to help build up some of our nation's deteriorating schools. You cannot do much worse than zero. You cannot do much worse than termination. We start talking about a balanced budget. I sit on the Finance Committee. How in the world can you talk about tax cuts when you have bills to pay off? The American people know this is just fiscal foolishness. Yet, we can provide for tax cuts and then turn around and say, ''Yes. But we still have to take a little whack out of the hide of poor people who get low-income energy assistance.'' This is not logical.

I have not been around to talk about 25 years worth of battles for social justice like the Senator from Oregon can. I know I do not have the parliamentary legislative skills of the Senator from West Virginia. But I do know this. That as a legislator elected from the State of Illinois the people in my State would not want to see me just lay down on this railroad track and get run over without saying anything.

While we recognize that all of our colleagues want to go home, everybody wants this vacation, and we do not want to be obstreperous, we are not trying to be mean to anybody. At the same time what do you tell these teenagers when you go home, these runaways? We cannot provide them with job training.

When we go home, what do we tell our senior citizens? ''It is summertime now. Don't worry about it. It is going to be OK. Guess what? If you freeze to death, we will appropriate some more money.'' I do not think so. I do not think that is an appropriate response.

I think we have an obligation to stand on this floor and do exactly what we are doing to try to make sure that at least the American people know what is happening to them. So at least this does not just kind of hide and slip through and end up being an ax job in the closet. So at least we make the point out here that this is no way to start off balancing a budget.

Yes. We have to balance the budget. Absolutely we have to do deficit reduction. I served on the President's Commission on Entitlements and Tax Reform. We did not come away with any recommendations. But it was a terrific experience. It told us what kind of trouble we would be in if we did not achieve a balance and a deficit reduction. So I am as committed on that issue as anybody here.

But I say to my colleagues that we should not start off by taking away money that was appropriated last year. And, by the way, I do not know if that has come out in the debate, I say to Senator WELLSTONE. We are talking about rescinding money that was already appropriated last year. This is not even go-forward money. This is not even what we are going to do now, that we have kind of a consensus around here on the balanced budget. This is what happened last year. The bill before us says, ''You have appropriated this money but we are going to take it back.'' In some of these areas, the numbers were below what they had been previously anyway.

So we are going to take it out of the hide of the young people who need job training, pregnant teenagers, disabled teenagers, homeless teenagers, and runaway youth. We are going to take it from them.

We are not enforcing a sensible set of priorities with this. And I do not think it is inappropriate for us to stay a little while to talk about what we can do. Maybe this document can be made better. Maybe it can be made better. Maybe there is some room. I do not know. I mean we are not on that committee. I am on the Finance Committee. I know Senator WELLSTONE is not on committees that wrote this legislation. I understand that. You cannot consult with everybody. But certainly Senator WELLSTONE, the Senator from Minnesota, used the expression, the ''path of political expediency.''

Mr. WELLSTONE. Will the Senator yield? Actually, I said, the ''path of least political resistance.''

Ms. MOSELEY-BRAUN. That is correct. ''Path of least political resistance.'' That is better than the ''path of political expediency.'' That is correct.

I appreciate that correction from the Senator from Minnesota. That was the expression that he used, and I think it is very well taken—least political resistance. I just think that even in situations like this, in which the people who sat around in the wee hours and hammered this out—and again, we appreciate the effort and we know there is an attempt here at compromise, but at the same time I think it would be inappropriate for us not to discuss these issues.

Do we have amendments? Well, one nice thing about the Senate is that it is a traditional legislative body. I listen very closely to ROBERT BYRD when he starts talking about this institution. I love it, too, because it allows you to be a legislator; it allows you to be a lawmaker; so much so that you can write an amendment down on a piece of paper. I would like to get it typed up. I know we do not have a whole lot of time. I know we are in a hurry. I have an amendment here. It is handwritten. I just would like to have it typed. It would restore the money for job training of disadvantaged young people, restore the money for school construction; $35 million is a drop in the bucket. It was cut from $100 million.

The original appropriation was $100 million, reduced to $35 million, in this bill reduced to nothing, taking back money that was appropriated.

This is not logical, it seems to me, nor is it fair, nor is it sensible, nor is it forward-looking, nor is it appropriate, nor does it comport with our obligations to the American people. Job training started out at $398 million, reduced by $272 million. In this bill, it is $126 million. So that is a pretty good whack on job training for disadvantaged young people.

I do not have the numbers. The Senator from Minnesota may have the numbers on what the whack was on last year's appropriation for heating assistance, but the point is this is not something that I think we should just roll over and not say anything about and say, well, you know, it is the time, it is just open season on disadvantaged youth and schools and school kids and poor people who need heating assistance and just roll over and let this happen. I just think it is inappropriate.

I say to my colleagues again, this legislative body permits for this kind of dialog, and it would be inappropriate for us as legislators not to raise the issue, not to raise the question whether or not we can fix this a little bit.

Maybe the amendments will go down. I do not know how many —I just do not know. Maybe my colleagues will go lockstep on that side of the aisle. I say to the Senator from Kansas, the majority leader, maybe his guys will go in lockstep because of a political agenda. Maybe the letter from the President means the folks on this side of the aisle will go in lockstep, and we will lose. But I want everybody to know that I am prepared to talk about job training for disadvantaged youth today, tomorrow, the next day, the day after that, the day after that, to talk about why we need to try to make certain that these kinds of efforts do not get the ax.

Mr. BYRD. Will the Senator yield?

Mr. HATFIELD. Will the Senator yield for a question?

Ms. MOSELEY-BRAUN. Only for a question, and I retain the right to the floor.

Mr. BYRD. The Senator retains her right to the floor. She can just yield for a question.

Ms. MOSELEY-BRAUN. Yes. I thank the Senator. For a question. I will yield for a question, yes.

The PRESIDING OFFICER. Who is the Senator from Illinois yielding to?

Ms. MOSELEY-BRAUN. The first question I think was asked by the Senator from Oregon and then the Senator from West Virginia. I will yield for a question from both of them.

Mr. HATFIELD. I thank the Senator.

I was wanting to ask the question, did the Senator support the Daschle-Dole compromise in the rescissions package that originally passed the Senate?

Ms. MOSELEY-BRAUN. The Senator from Oregon has some very good staff members. Yes, I did, I supported it, but the education infrastructure was not restored in that compromise.

Mr. HATFIELD. The cut for youth job training centers was $272 million.

Ms. MOSELEY-BRAUN. That is correct.

Mr. HATFIELD. The Senator supported it, and in this package it is $272 million, the precise same figure that the Senator supported in the Daschle-Dole compromise.

Ms. MOSELEY-BRAUN. That is true. That is correct. And I make the point that procedurally that was an interim step to where we are today. It was my hope always that we would be able to work toward closure and resolution in a way that made sense.

That vote was not the ultimate vote. This vote is the ultimate vote with regard to fiscal year 1995 rescissions. And so I make the point to my colleague——

Mr. HATFIELD. I thank the Senator.

Ms. MOSELEY-BRAUN. The Senator is correct. The Senator from West Virginia had a question, also.

Mr. BYRD. My question was based on the statement that I understood the Senator to say earlier that her amendment was not typed up; it was just in handwriting. My question was, is she aware that an amendment does not have to be typed, that it can be sent to the desk in one's own handwriting?

Ms. MOSELEY-BRAUN. Yes. I say to the Senator from West Virginia, yes, I am.

Mr. BYRD. And she may——

Ms. MOSELEY-BRAUN. Again, I think that is a wonderful thing about this institution.

Mr. BYRD. Is she also aware that she may orally state the amendment?

Ms. MOSELEY-BRAUN. I was not aware of that. I say to the historian of the Senate, I was not aware that an oral amendment was appropriate.

Mr. BYRD. And if she sends it to the desk or orally states it, she loses the floor?

Ms. MOSELEY-BRAUN. I thank the Senator. I was not aware of that either. I appreciate the counsel from the Senator from West Virginia.

Mr. DOLE. Will the Senator yield?

Ms. MOSELEY-BRAUN. The majority leader.

Mr. DOLE. Will the Senator yield for a question?

Ms. MOSELEY-BRAUN. For a question by the majority leader.

Mr. DOLE. I make an inquiry. Does the Senator intend to offer it or not? I wish to find out—if we are just going to have a filibuster here with two Senators, that is fine—so we can make other plans. If we are going to offer amendments, we hope Senators offer the amendments so we can have a vote.

Ms. MOSELEY-BRAUN. I thank the Senator. I say to the Senator from Kansas, the majority leader, I have an amendment to offer. I have not yet offered it. I am looking at offering it. I would like to get it typed up. I would like to have a chance to talk about the offsets and the numbers and where the money is going to come from. I understand the Senator from Minnesota has an amendment.

Mr. WELLSTONE. If the Senator will yield, I have several amendments in exactly the areas that I was speaking about that I intend to offer and have debate upon, absolutely, and hope to win on them. I said that from the very beginning.

Mr. DOLE. If the Senator will yield, why not offer the amendment? We have been here almost 2 hours on this measure and nothing has happened except for a lot of discussion. And if the Senators are going to offer amendments, let us offer amendments. If Senators do not mind disaccommodating colleagues on that side, I am not going anywhere this weekend, so I will be here all weekend. It is up to Senators. If the President does not have any influence with either one of his colleagues on that side, that is his problem. But we would like to complete the bill because the President would like to have it done. And I wish to make the best effort I can on behalf of the President, but if I am thwarted by members of his own party, I am not going to spend a lot of time trying to help the President. Maybe he ought to pick up the phone and make a couple of phone calls.

But in any event, if we offer the amendments, as the Senator from West Virginia said, we can have a vote. It will be an amendment vote. And then we will see where we are. I do not know how many Members are left. Many Members had to leave early to make plane reservations. We are still enough

here to do business. We are prepared to do business. Let us do business.

Mr. WELLSTONE. Mr. President, if I could respond——

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. WELLSTONE. Will the Senator yield for just a moment?

Ms. MOSELEY-BRAUN. For a question, yes.

Mr. WELLSTONE. The question is in response to the majority leader.

Ms. MOSELEY-BRAUN. For a question.

Mr. DOLE. For a question.

Mr. WELLSTONE. First of all, let me be clear one more time. I am drafting amendments and am pleased to have the debate. But I would say to the majority leader, it is not a question——

The PRESIDING OFFICER. The Senator from Illinois may yield for a question.

Does the Senator from Illinois yield, for a question, to the Senator from Minnesota?

Mr. WELLSTONE. Will the Senator from Illinois yield for a question?

Ms. MOSELEY-BRAUN. To the Senator from Minnesota. I just did.

Mr. WELLSTONE. Let me restate it. Will the Senator from Illinois agree with me that when you get a bill at 9:50 in the morning and you have not had any opportunity to even examine what is in that bill, that the way to represent the people back in your State and the way to be a conscientious legislator is to, first of all, have a chance to look at it and then to be drafting amendments? I have several amendments, I would say to the Senator, already that I am working on. But I want also to look at this bill to see what is in it, and I may have some others.

Would the Senator agree with me that that is a conscientious approach; it is a mistake having something come over here and go through without having a chance to look at it and have discussion and have amendments?

Would not the Senator also agree with me that during a large part of the discussion this morning we have been responding to questions from other colleagues? It is not as if we have just been speaking by ourselves, only to ourselves. And we have been trying to highlight the priorities in this legislation. Would the Senator agree with me? Or some of the distorted priorities and talking about why not some alternatives? Would the Senator agree that that has been what is going on here?

Ms. MOSELEY-BRAUN. I would not only agree, but I would underscore the remarks of the Senator from Minnesota. And I do not have in front of me, since we just came to the floor—again we just got this bill. I did not have a chance to put together the normal amounts of information. But the fact is I do not understand—we are now in the position of being accused of trying to stall something. There is this hurry, hurry, we have just got to pass this and it has to be today. We have to have this rush of what we are going to rescind from last year's legislation. This process has taken a long time. It has gone step by step by step. We had the vote that the Senator from Oregon referred to, which I consider to be an interim step in the process, and we just got this bill this morning, quite frankly.

Were it not for just some pretty fast action to even find out that the JTPA youth training program was being cut by $272 million and education infrastructure was being terminated and low-income heating assistance was being slashed—there may even be more provisions in there of which we are not aware. We have not had a chance—I have been on my feet since 10:30, almost 2 hours. I have been standing right here. And I understand that it is part of the process that you have to stand right here, you cannot move, you cannot go to the telephone, you cannot stop and read things, and you cannot go through and do the kind of research that is required.

But just to ask us to rush to judgment on something as significant as a rollback of money that was appropriated last year, and particularly when that rollback rolls over disadvantaged youth and it rolls over people who want to see our schools repaired and it rolls over poor people who may freeze to death next winter, we are going to roll back and roll over simultaneously, and we have to sit here and say, ''Oh, well, we have to go along with the program. It is not appropriate for us to get up and yell and argue; well, on the one hand, we have been told we may make it worse for those people next year. You have seen these cuts. Well, it is just going to get worse.''

Lizzie Borden took an ax and gave her father 40 whacks. Next year it will be 41, maybe even 42. Well, I am sorry. My attitude about this is—I am not trying to be obstreperous. I think the Senator from Kansas and everybody in this body knows I come out of a legislative tradition. I understand compromise. I understand working with people. I try to work with everybody. But I will tell you, there is a point at which you have to say you stand for something, and among the things we stand for is seeing to the disadvantaged youth, teenagers, 16-to 21-year-olds who are disabled, homeless, school dropouts, runaways, that they do not take a $272 million whack.

I mean, come on. Education infrastructure. I may have to bring out the pictures, I do not know. I was not looking to have to be on my feet this long time, but I have the pictures sitting in the back. You have seen them. Most of the Members of this body, I hope, have seen them if they were listening at all. We have schools falling apart. Kids are having to study next to broken sewer pipes, not to mention broken windows, floorboards cracking through. I can go through—and bring out the pictures—the safety and health hazards, not decoration, not cosmetic, but basic kinds of stuff, and it gets terminated, all $35 million.

It started off at $100 million and went down to $35 million. The Senator from Oregon asked why I voted for the previous compromise. Well, being a legislator, I am compromising. ''We're going to go, yes, it's OK, we'll cut from $100 million to $35 million because, boy, we have to have shared sacrifice in this time of deficit reduction. So, yeah, I'll give up some of the millions of dollars, given the fact we haven't invested in our schools, given the fact they are falling apart. But I am prepared to make some investment in the process, to go along with the program.''

So we went from $100 million to $35 million, and then I look up and it is zero in this bill. I do not think that is sensible. I do not think the spirit of compromise goes to the point where you just strangle yourself, or the spirit of compromise says you necessarily have to just go quietly into the closet and let somebody cut you to death with a meat ax. I just do not think that is what the spirit of compromise means.

I think there are offsets. We were talking about where is the money going to come from? Well, we looked at it just very briefly. Here is money—we give FEMA more money than they think they need. OK, it is important to have some money for emergencies sitting there, but could you not do that by supplemental appropriations? We could not find a few dollars to put back some of the money for disadvantaged youth, for education infrastructure?

So I ask the Senator from Minnesota—I want to applaud his leadership, because last night we had a conversation here on the floor because we did not know what was going to be in this bill, and the Senator from Minnesota said, ''Well, I am waiting to see what is going to be in it, because I hear some pretty bad things about it, and if it turns out it is as bad as I hear, I am just going to have to take to the floor and object.'' I applaud him for that.

Mr. WELLSTONE. Will the Senator yield for just a moment?

Ms. MOSELEY-BRAUN. I yield, yes, for a question.

Mr. DOLE. Mr. President, the Senator may yield for a question but not for debate.

The PRESIDING OFFICER. The Senator may yield for a question.

Ms. MOSELEY-BRAUN. I yield for a question.

Mr. WELLSTONE. Last night, is it not the case I said to the Senator that I did not know what was going to be in the bill, but what I wanted to have was at least an opportunity to look at it? Is it not true I said I did not want this to be steamrolled, and I also wanted to have an opportunity to have discussion and offer amendments to restore some of the cuts which I think are cruel to some of the most vulnerable citizens? Is that not the gist of our discussion, which is what I intend to do?

Ms. MOSELEY-BRAUN. That is the gist of the Senator's statement to me.

I applaud him for his leadership and foresight.

I guess I am a little optimistic. I had hoped that the compromise would mean we would not take any whacks out of kids and poor people and the vulnerable population. I had hoped we had moved in the direction of saying, ''Well, we pushed it this far, we are going to leave education funding like it is, we are going to leave job training like it is, we are not going to fool around and take any more out of the people who need heating assistance, money to help heat their homes in communities like the Senator's and like mine.''

The Senator from Minnesota was talking with the Chair earlier about how the wind chill gets to be 70 below in Minnesota. I do not know the last time the Senator from Minnesota visited Chicago and Lake Michigan in the dead of winter, January. It gets so cold people say its the hawk coming off the lake, and what looks on the thermometer to be 10 below feels more like 50 below. There are a lot of senior citizens, a lot of senior citizens who live on fixed incomes who do not have the ability to heat their homes in the winter, to withstand that. Will the Senator from Minnesota advise the Senator from Illinois, what is the cut on home heating assistance?

The PRESIDING OFFICER. The Chair reminds the Senator from Illinois that she can only yield for a question.

Mr. WELLSTONE. Will the Senator yield for a question?

Ms. MOSELEY-BRAUN. I will yield for a question.

Mr. WELLSTONE. It is the Senator's understanding based upon the answer that I am about to give to the Senator that it is about $320 million, or so, of cuts. And does the Senator understand that what happened was that on the Senate side, when we voted for this rescissions package, I voted for it? We had restored the full funding, though the House had eliminated the whole program. I have strong support, letters that I have here when we get to the debate on the amendment from the distinguished chair of the Appropriations Committee that we would hold firm in our position. But now we have over $300 million of additional cuts that just came to us late last night.

Would the Senator agree with me that in terms of priorities, what is the hurry? Would the Senator agree with me in terms of the focus we keep getting this pressure about hurry, hurry, hurry? Why are we in such a hurry to cut low-income energy assistance for elderly people, people with disabilities, people with children? What is the hurry to do that? Would the Senator be able to answer that question for me?

Ms. MOSELEY-BRAUN. Well, there is an answer, I say to the Senator from Minnesota. There is an answer, and the answer is: Vacation, I think.

I think the answer is that folks want to go home. The answer is, the deal is cut, the deck is stacked, this game has moved on down, talk about games. This train is on the track and, unfortunately, people who are concerned about $272 million cuts in job training for disadvantaged young people and who are concerned about $319 million cuts in heating assistance for poor people, and are concerned about termination of the program altogether to fix the schools—well, our bodies are just here on the track. Guess what? Our bodies being on the track is considered to be an annoyance. That is the phenomenal thing about it.

We are talking about substantive issues, and the response is that we are getting in the way, we are an annoyance. It is annoying to talk about homeless teenagers who will not get job assistance. It is annoying to talk about senior citizens found frozen to death. You know and I know, as well, that you get these stories every winter. It is annoying to talk about young people sitting up in classrooms, expected to learn. Goals 2000 calls on all Americans to reach certain educational levels by the year 2000. How can you expect a child to learn when he is sitting there trying to study English next to a broken sewer pipe? How can you expect him to get on the information superhighway when there is only one plug in the classroom and it does not work? But that is an annoyance to talk about that, and it is an annoyance to get in the way of the program. Heaven forbid that we stand on the train track while this train is coming down and raise these issues.

I tell you, in response to the Senator from Minnesota, I do not know what the hurry is. I do not know why we could not have time to—I understand the procedures. If you want to talk about these issues and the train is on the track, you have to actually stand on your feet in the Senate Chamber and talk about it and, no, you do not get a chance to sit down and read the bill. It is called a done deal. Do not pay attention to the details. But, you know, I would like very much to pay attention to the details. I would love to read that bill.

You know the old expression, ''The devil is in the details.'' Quite frankly, I am glad I found them on two of them. I caught them trying to take $272 million out of job training for young people. I caught them trying to take money out of LIHEAP. There are probably more, I do not know. I look forward to a chance to do it.

But, as the Senator from West Virginia advises, our amendments—I say ''ours'' because I know the Senator from Minnesota, who actually has precedence in that regard since he was here before I was, has some amendments. And I have two—at least two. That is based on what I have seen so far.

I have not had a chance to read the whole thing. I am sorry, I say to the majority leader; we are not trying to be obstreperous. We are not. I do not mean to annoy. I do not. I really care passionately about these issues and what happens to these kids, and what happens to these old people. I do not know what else to do, unless the negotiators are willing to take the amendments or fix the compromise. There is money in there to do it with.

Like I said, this bill would give FEMA almost $1.9 billion more than they say they need. I hope they will not need it. If anything, the money that FEMA needs is for disasters. We had a terrible thing happen in Illinois. We had flash floods down in southern Illinois, following the floods of 1992. FEMA is doing a great job and nobody wants to impair them. But to give them more money than they say they need does not make a lot of sense to me, either. We can pay for these programs out of that.

Again, not being on the committee, I do not mean to be a Monday morning quarterback. I know the committee members worked hard and they meant well. But you cannot start off this balanced budget march by stepping on the feet of disadvantaged kids and senior citizens who need heating, and school systems that need windows repaired. You cannot start off down this road.

If we start taking back money from last year in this regard and then we go to reconciliation and the appropriations process this year and make it worse, by the time we achieve a balanced budget, we will have blown our country's fabric out of the water. I do not know about you—again, I guess because I am still on my feet and I have to stay on my feet—I do not know about you, but sometimes I watch—I have a teenage son. My son, Matthew, is 17 now. His generation watches a lot of these futuristic movies. So I get a chance to see some of this stuff.

I am appalled by the vision of the future that they have. Societies with people living in rusted-out cars and alleys, and the very rich with the corporations running the countries, with the very rich up here and the very poor, everybody else, digging in garbage cans. That is the vision they have. And then here we are today saying that teenagers and runaways and dropouts and homeless youth 16 to 21, take that $272 million—the only thing that gives them any job training hope.

Are we buying into that vision? I hope not. We talk about making it an opportunity society. How are you going to make it an opportunity society if you do not say our kids are our priority, jobs are our priority? We want to give people the ability to be productive. How do you do that? I guess there are some here. I think one of the secrets in all this budget stuff —some of my colleagues use the term ''defense spending.'' It is not really defense spending; it is military spending. Lord knows that everybody wants to be patriotic, and we all want to stand by a strong military, because it is still a dangerous world out there. We want to give them what they need to work with.

So one side of the budget goes to those activities—whether there is a firewall, real or not, there. One side of the budget goes to those activities, and the other side has to feed on itself. So we are pitting senior citizens against kids. That is no approach. That is no approach.

Our social fabric depends on our ability to provide jobs. We should be able to provide job training for our young people. The Senator from Oregon said, ''You voted for the first compromise.'' Well, yes, everybody will probably have to give up a little something this time, because we have these huge deficits and we have to get past them. We have to get on a sound fiscal footing. Yes, we are all going to have to tighten our belts a little.

But that means shared sacrifice. It does not mean tax cuts—tax cuts—tax cuts on the one hand and cuts in investment in people on the other. This is not logical. This is not logical.

You say we have to do this to comport with the budget resolution. Well, okay, but the budget resolution is what has the tax cuts in it; and, parenthetically, tax hikes on people who make less than $28,000.

How can we maintain the fabric of this Nation if we are going to exacerbate income disparities like that, if we are going to eat away at people's hope like that, if we are going to buy into the future of the movies that Matt's friends look at? How can we do that?

Again, that is why I am on the floor, and I will yield to the Senator from Minnesota for a question at this time. But that is why we are on the floor here. No, it is not fun to be seen as a ''sticky wicket'' person in the way, standing on the train track, about to get run over. It is not fun. But I do not have a problem doing it.

I yield to the Senator from Minnesota for a question.

Mr. WELLSTONE. Two questions: First of all——

Mr. DOLE. The Senator from Illinois has lost the floor.

The PRESIDING OFFICER. Does the Senator from Illinois yield for a question?

Ms. MOSELEY-BRAUN. I have done that. I yielded for a question.

The PRESIDING OFFICER. The Senator must stay on her feet.

Ms. MOSELEY-BRAUN. During the question, while he is responding to my question?

The PRESIDING OFFICER. Yes. If the Senator does sit again, the Chair will assume that she has relinquished the floor.

Ms. MOSELEY-BRAUN. I thank the Chair for that courtesy.

Mr. WELLSTONE. I have two questions.

First of all, I assume the Senator realizes how pleased I am that the Senator is out here speaking with me. These are very important issues, as the Senator realizes, and it is very important to be out here speaking on these concerns.

Ms. MOSELEY-BRAUN. To the Senator from Minnesota, I not only realize how important it is, but I have just been told I cannot even sit down, so it is going to get tougher by the minute. I understand that.

I think that the sacrifice of standing on my feet, however many hours this is going to take, pales in comparison to the sacrifice of that constituent the Senator read about and talked about this morning who may not be able to pay for heating in the winter in Minnesota, which is almost a fate too horrible to contemplate. Being on my feet pales in comparison to those teenage runaways, disabled teenagers, school dropouts, homeless teenagers, 16- to 21-year-olds.

Standing on my feet helps to save and give them some hope, and to preserve some portion of rationality in this debate about whether they are a priority or not. I am prepared to do that.

Mr. WELLSTONE. Will the Senator yield for another question?

Ms. MOSELEY-BRAUN. I yield for another question.

Mr. WELLSTONE. The Senator was talking about tax cuts. Is the Senator aware that this rescissions package, beyond the first round of about $5 billion in cuts, the real issue is what happens in the years to follow in the outlays?

Does the Senator understand that if we extend this to the future, that actually some of this money that is cut could very well be used—in other words, some of the money that is cut—for nutrition, for fuel assistance programs, for elderly people, or for that meat for children, for the job training program, for education, for counseling assistance to older people to make sure they do not get ripped off by supplemental insurance policies to Medicare? Does the Senator realize that actually some of that money, as we look down the pike, some of these cuts, this money could be used to actually finance the tax cuts which go disproportionally to people on the top?

In other words, what could be going on here if this is the first round, where the rubber meets the road, we have priority programs extremely important to the most vulnerable citizens. Does the Senator realize this money could be used to finance tax cuts for fat cats in the country, the most affluent people?

Ms. MOSELEY-BRAUN. Mr. President, not only am I aware of it, I say to the Senator from Minnesota, I serve on the Senate Finance Committee, and I am very much concerned about, again, the direction. I think that is probably the most significant thing about where we are with this bill.

This bill relates to last year's money, really—the appropriations happened last year. I am just afraid if we go forward and say that it is okay to cut JTPA, education infrastructure, and LIHEAP, assistance for seniors, if we start off that way, it is just going to get worse.

Mr. DOLE. Does the Senator intend to offer an amendment or talk the rest of the afternoon?

Ms. MOSELEY-BRAUN. We have amendments.

Mr. DOLE. When does the Senator intend to offer the amendments?

Ms. MOSELEY-BRAUN. Talking about a timeframe?

Mr. DOLE. We have been on this 2½ hours. The Senator could have read the dictionary in 2½ hours.

Ms. MOSELEY-BRAUN. I have not been able to sit down.

Mr. DOLE. Please do.

Mr. WELLSTONE. Will the Senator yield for a question?

Ms. MOSELEY-BRAUN. I yield for a question.

Mr. WELLSTONE. Perhaps the Senator from Illinois could respond to my concerns. I have amendments. I have said that all along.

The question is whether there could be an agreement. Maybe we could work this out where we could have some assurance that I do not introduce the amendment, and right away the majority leader tables it. I would want there to be time for debate.

Will the Senator from Illinois agree that we are interested in that assurance? Otherwise, what could happen, we could introduce amendments and immediately they could be tabled. I wonder whether the Senator from Illinois would agree to move on to amendments; that it is critically important that there is agreement we have time to debate the amendments. Otherwise, we will introduce the amendments and the majority leader will rise to the floor and move to table, and we will not have any discussion at all.

Does the Senator agree that is critical?

Ms. MOSELEY-BRAUN. I think so. That would be very important. The whole idea is to get a vote on these amendments and to get some discussion on these amendments. I am prepared to put the amendments down if we can get that kind of an understanding with the majority leader.

Mr. DOLE. Will the Senator yield?

Ms. MOSELEY-BRAUN. I cannot yield to the majority leader, but I could yield for a question.

Mr. DOLE. You could yield the floor.

Ms. MOSELEY-BRAUN. No, I cannot.

I say to the majority leader, I would love to yield the floor. I would love to introduce my amendments. I would love to move this process forward. I am not looking forward to just standing here and talking—I would.

But I think the problem is, because I am kind of stuck in this spot, I have not been able to have a discussion about any time arrangement or whether or not we will be able to have discussion and a vote on the amendments, including Senator WELLSTONE's.

So I am searching for a way, within the context of the Senate rules, that I can reach some kind of understanding regarding the procedure without losing my rights to the floor.

Senator WELLSTONE, and I think appropriately—is right. I think at this point, the majority leader, as always, has an interest in moving forward on this. I cannot imagine he would keep us from having a real vote and debate on this amendment. So I will yield to the Senator from Kansas.

The PRESIDING OFFICER. The Chair would say, the Senator from Illinois cannot yield to the Senator from Kansas. She can yield for a question or she can yield the floor.

Ms. MOSELEY-BRAUN. I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senate majority leader is recognized.

Mr. DOLE. Mr. President, I thought we had been debating the amendments the last 2 hours. I have listened to debate on the Low-Income Home Energy Assistance Program and counseling program and the job training program now for 2 hours. I do not know how much debate we need. I think everybody understands precisely what the issues are.

I am prepared to offer the amendment myself. I will offer the amendment. I will offer it all in one amendment, move to table the amendment, and there will be a vote on the amendment, if that satisfies the Senator from Minnesota and the Senator from Illinois. We want to bring this to a conclusion.

Again, let me repeat, I have a couple of options. I understand the President may be trying to reach you on the telephone. That is an option I had not thought of—because I can reach you right on the floor.

This has become the President's bill. He is concerned about the people who suffered in Oklahoma City. He is concerned about the people who suffered in earthquakes in California—as he should be. I think there are 39 States affected by disasters that are going to be affected by this bill, and we are still going to save $9.2 billion. It is a $16 billion bill; we spend about $6.8—but we still save about $9.2 billion.

I have one option, just to call for the regular order, which brings back the Comprehensive Regulatory Reform Act of 1995. The other option is just go out of here, adjourn, recess. I will not bring this bill up again until there is an agreement it will be brought up without any amendments and we will have a vote on it.

But if the two Senators want to frustrate their own President, I do not know why I should complain. Maybe I ought to be happy about it.

But I am concerned. This whole thing should have been settled about 30 days ago. We have been waiting 30 days, the White House has been negotiating with the House and the Senate—it has not been in secret. Everybody has known it. It has been brought up in our caucus. I am certain the Democrats discussed it in their caucus.

It is no surprise when something comes to the floor and it is something Senators had not read. If people voted on only things they read around here it might be a lot better because we would not have so many votes. But I suggest we have reached a point where we are either going to pass this bill or we are going to pull it down. That is going to be up to the Senators from Illinois and Minnesota. They have every right to do what they are doing. I do not quarrel—I do quarrel with the course they are following, because I think it is going to mean we are probably not going to pass this bill. It is not going to go to the President.

I do not want there to be any illusion we are going to jump on this bill as soon as we come back and give them all the time they want for debate. It is not going to happen. We are going to be on regulatory reform and we are going to stay on regulatory reform, and after that we will be on something else. And the longer we wait, the less money we save in this bill. Maybe that is the strategy of the two Senators. If you can wait until the end of the fiscal year, we do not save any money. But neither do you help the victims in Oklahoma City or the victims in California or the victims in some 37 or 38 other States who have been hit by disasters. Nor do you, as pointed out by the Senator from West Virginia and the Senator from Oregon, the two experts here on appropriations—in effect, you are going to be hurting the people in your own States, in Illinois, Minnesota, Kansas, Montana, Washington, New Hampshire, wherever, by frustrating and by delaying this bill.

I do not know how many Senators are left in town. I think that is probably another strategy the two Senators have used. I hope there are 51. But if the two Senators will permit me to, I can offer an amendment, one amendment that would cover everything they have raised; have one vote. We would have low-income home energy assistance, the counseling program, and job training—have one vote on that. I would offer the amendment, then I would move to table my own amendment. But you would have a vote. You would have made your case. You would have fought for principle. And you may succeed. I am not certain.

But my view is—I think the Democratic leader shares this view—we need to move very quickly. We have had 2½ hours. We have had a lot of debate. There has been a lot of debate. I think all these amendments have been debated. I do not know why we need additional debate.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. COCHRAN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. BURNS. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. WARNER. Mr. President, I have got to take a trip to examine——

Mr. BURNS. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. WARNER. Flood damage in Virginia.

The PRESIDING OFFICER. A quorum call is in progress.

The clerk will continue the call of the roll.

The assistant legislative clerk continued with the call of the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, a number of us, including the two leaders, have been trying to figure out some way to accommodate those who have concerns about this bill. But I do not think it is going to happen.

So I am going to propound a unanimous-consent request, the two Senators can object to that, and then I will ask for the regular order and put us back on another bill.

Let me just say, I am not going to bring up the rescissions bill again until there is an agreement we will pass it without any votes. We are trying to accommodate the President of the United States. We are trying to accommodate the House, which passed this bill late last night. More important, we are trying to accommodate people in Oklahoma City who suffered a tremendous tragedy, and a lot of this money would go to help in that area. We are trying to accommodate the people in California who suffered earthquakes. We are trying to accommodate people in 39 other States who have had disaster problems.

Here we are on the floor talking about adding $5.5 billion, or x dollars, which can be done in later appropriations bills or supplementals. This debate does not make any sense to me, and I have been around here a long time.

Obviously, two Senators on a Friday before a recess can frustrate anything, and they have discovered that, and I commend them for it, because now they know every time there is a recess, on a Friday, they can say ''Oh, I can't let this pass, I feel strongly about this.''

We all feel strongly about this, but ask somebody in Oklahoma City and ask somebody in California or ask the President of the United States if we should pass this bill, and he would say yes.

We have dawdled around here for 3 hours. All these things have been debated. It is obvious that the Senator from Illinois and the Senator from Minnesota do not want anything to happen. They can object. But do not come around and say you want to bring the bill up after the recess. It is not going to happen.

Mr. President, I ask unanimous consent that it be in order for me to offer an amendment to the pending bill for Senators WELLSTONE and MOSELEY-BRAUN, the text of which restores the LIHEAP funding, adds back $5.5 billion for insurance counseling, $35 billion for education, and restores $272 million for Job Training Partnership, and that there be 10 minutes for debate divided between Senators WELLSTONE and MOSELEY-BRAUN, at the conclusion of which time the Senate will proceed to vote; that the bill then be advanced to third reading, and passed, the motion to reconsider be laid upon the table, all without intervening action.

The PRESIDING OFFICER. Is there objection?

Mr. WELLSTONE. Reserving the right to object. First of all, let me, one more time, make it crystal clear, Mr. President, that I have an objection to the characterization of discovering on Friday that you can stall. I have been working on the Low-income Housing Energy Assistance Program for a long, long time, as each of my colleagues knows. This is a critically important issue to some of the most vulnerable citizens in my State of Minnesota, a cold weather State.

Second of all, Mr. President, reserving the right to object, I want to make it very clear that when it comes to assistance for California and Oklahoma City, in no way, shape, or form do I intend to be held hostage to that, Mr. President. We are all for that.

Mr. DOLE. I call for the regular order, Mr. President.

Mr. WELLSTONE. Mr. President——

Mr. DOLE. Regular order.

The PRESIDING OFFICER. Is there objection?

Mr. WELLSTONE. I object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

Mr. DOLE. I call for the regular order.

COMPREHENSIVE REGULATORY REFORM ACT

The PRESIDING OFFICER. The clerk will report the underlying pending business.

A bill (S. 343) to reform the regulatory process, and for other purposes.

The Senate resumed consideration of the bill.

Mr. DOLE. I advise Members that there will be no more votes today. We are back on regulatory reform.

I have been given the authority by a majority of members of the Judiciary Committee and the Governmental Affairs Committee to withdraw the committee reported amendments.

The PRESIDING OFFICER. The amendments are withdrawn.

AMENDMENT NO. 1487

(Purpose: To provide a substitute)

Mr. DOLE. Mr. President, I send a substitute amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for himself, Mr. JOHNSTON, Mr. HATCH, Mr. HEFLIN, Mr. NICKLES, Mr. ROTH, Mr. MURKOWSKI, Mr. BOND, Mr. GRASSLEY, Mr. COVERDELL, Mr. THOMPSON, Mr. CRAIG, Mr. BROWN, Mr. THOMAS, Mr. KYL, Mr. BREAUX, Mrs. HUTCHISON, Mr. ABRAHAM, Mr. GRAMS, and Mr. LOTT, proposes an amendment numbered 1487.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. DOLE. Mr. President, this will be the text which will be amended on Monday, July 10. There will be two amendments. There will be votes, starting at 5 o'clock on Monday.

THE RESCISSIONS BILL

Mr. DOLE. Let me again state this, so there will not be any misunderstanding by the Senators from Illinois and Minnesota.

The next time we bring up the rescissions bill it will be by a unanimous-consent agreement, without any amendments, and with very little debate. They can continue to frustrate this Senate on a Friday afternoon all year long. That is fine with me, because I have to be here anyway.

I think they are doing a disservice to hundreds of thousands of people across America to make a political point. They have that right. Everybody makes political points on the Senate floor. And to say they are not making a political point, I think, would be a stretch.

Where was all the debate when the conference report was passed? Where has been all the concern in the last few days? These Senators know, as well, that this has been undergoing intense scrutiny with the White House, the Democratic and Republican leadership, and they finally got together. The President says pass it. I read his statements a couple of times, the statement of the administration.

Two Senators can frustrate anything. It is too late to file cloture; it is Friday afternoon, which they knew. But that is their right. I do not want to take any rights away from anybody. The day may come when they are trying to pass something on a Friday and somebody will jump up and say they cannot do this. That is the way it goes from time to time.

So I am disappointed. I apologize that we could not pass this bill. I apologize to the many people who will be suffering in the interim because of the efforts by our colleagues. But I cannot change that. They have every right to do what they have done. They objected to the immediate consideration.

Apparently, they did not really want to vote on the amendments in the first place. They had a chance to have a vote on all the amendments. We could have had a vote, but after 3 hours of wasted time, they did not want to vote and they objected. They have that right.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. MOSELEY-BRAUN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. DOLE. I object.

Ms. MOSELEY-BRAUN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. DOLE. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will call the roll.

The assistant legislative clerk continued with the call of the roll.

Ms. MOSELEY-BRAUN. Mr. President, I have a question that I would like to propound, unless the——

The PRESIDING OFFICER. The Senator cannot conduct debate.

Mr. DOLE. You cannot do that.

Ms. MOSELEY-BRAUN. I cannot ask a question because you will not allow the quorum call to be called off.

The PRESIDING OFFICER. The only question in order is to ask that the order for the quorum call be rescinded.

Ms. MOSELEY-BRAUN. I understand that. The majority leader objected to that, so I cannot get to my question of the majority leader.

The PRESIDING OFFICER. The Senator cannot proceed.

Ms. MOSELEY-BRAUN. I was just checking. Thank you very much.

The PRESIDING OFFICER. The clerk will continue to call the roll.

The assistant legislative clerk continued with the call of the roll.

Ms. MOSELEY-BRAUN. Mr. President, is there any way to inquire——

Mr. DOLE. Regular order.

The PRESIDING OFFICER. The only thing in order is for the Senator to ask unanimous consent that the order for the quorum call be rescinded.

Ms. MOSELEY-BRAUN. Is there any way to find out when the majority leader will not object to the quorum call order being rescinded?

Mr. DOLE. Regular order.

The PRESIDING OFFICER. The Senator is violating the rules of debate. She cannot speak unless the quorum call is rescinded.

Ms. MOSELEY-BRAUN. I understand, but I was trying to propound a question to the Chair. I ask that the quorum call——

The PRESIDING OFFICER. The Senator cannot proceed.

The PRESIDING OFFICER. The clerk will continue to call the roll.

The assistant legislative clerk continued with the call of the roll.

Ms. MOSELEY-BRAUN. Mr. President, now?

Mr. DOLE. Mr. President, regular order.

The PRESIDING OFFICER. The Senator cannot proceed. The only item in order is to ask that the quorum be rescinded.

Ms. MOSELEY-BRAUN. Mr. President, I would do that. I was asking the question, whether now is the time that the motion to rescind the quorum call might possibly not be objected to.

The PRESIDING OFFICER. Is the Senator seeking consent to rescind the call for the quorum?

Ms. MOSELEY-BRAUN. Mr. President, yes.

Mr. ASHCROFT. Mr. President, I object.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk continued with the call of the roll.

Mr. ASHCROFT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. ASHCROFT. Mr. President, I ask unanimous consent that the following Senators be recognized to speak in the following order for the allotted times: Senator WELLSTONE, 10 minutes; Senator MOSELEY-BRAUN for 10 minutes; Senator ASHCROFT for 10 minutes; Senator BYRD for 10 minutes.

I further ask that following the conclusion of Senator BYRD's statement, the majority leader be recognized to speak and then proceed to various wrap-up items that have been cleared by the two leaders.

Following those items, the Senate would stand in adjournment under the provisions of Senate Concurrent Resolution 20.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ASHCROFT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE RESCISSIONS BILL

Mr. WELLSTONE. Mr. President, I shall be very brief and will be followed by the Senator from Illinois.

Mr. President, let me try to give the morning and part of this afternoon some context. We had a bill, which was about 120 pages long, come over from the House at about 9 o'clock today. This was the rescissions package voted on about 10 o'clock last night in the House of Representatives. It is my really strong view as a Senator that it is important to be able to review legislation, especially when we are talking about the cuts that directly affect people's lives. Sometimes, Mr. President, we get into the statistics and numbers and we forget the faces.

I had voted for the rescissions package passed out of the Senate earlier. I voted against the conference report because of changes that had been made. It is no secret to any Senator in here that I feel especially strongly, as do many other Senators feel very strongly, about several programs—but it is not programs. It is really about people.

I spoke about the Low-Income Home Energy Assistance Program, and I had an amendment and wanted to introduce an amendment that would have restored about a 20-percent cut in the LIHEAP. In my State of Minnesota there are 110,000 households and 300,000 people who are depending on this. I come from a cold weather State. It is a small grant, but for many people it is the difference between heating and eating.

I say to the Presiding Officer, the Senator from Idaho, because I know what kind of Senator he is and I think we respect each other whether we agree or disagree, I met with people in their living rooms. I saw the fear in their eyes. I know how strongly these people depend on this assistance, especially in such a cold weather State. And I said I would fight for these people, and that is what I have done. Because what happened last night in this final package is that we did not have the original Senate version, but we cut it 20 percent, some $315 million.

In addition, I fought for a counseling program for elderly people, to make sure they could not be ripped off. It was consumer protection. This was coverage that people asked for in addition to Medicare, to fill in the gap.

Then I discovered there were some additional cuts in dislocated worker programs. The Senator from Illinois spoke eloquently, of course, about a program she had worked on, just a small amount of money for school infrastructure, for kids.

So what I said today was I wanted the opportunity to go through this bill. I wanted an opportunity to talk about it. I wanted an opportunity to introduce amendments. The first amendment would have been offset, and I gave examples of some of the waste in the travel administrative budget in defense. That money would have been transferred so we would not have the same cut in the Low-Income Home Energy Assistance Program.

I must say, Mr. President, looking at this in a slightly larger context, I find it unconscionable. Really, what we might be talking about, as we extend this rescissions bill into the future—this is a grim precedent of where we are going, since this is where the rubber meets the road. We could be seeing the cuts in the outyears for low-income energy assistance, for children, for education, for counseling for seniors to make sure they do not get ripped off with health insurance—all used to finance tax cuts that go in the main to wealthy, high-income people. Cuts in programs for dislocated workers, job training, you name it. All in the name of tax cuts? We do not go after any of the subsidies for the oil companies but we cut low-income energy assistance? We do not go after any of the military contractors, any of the waste there, but we make cuts in low-income energy assistance, job training programs for kids, counseling programs for elderly people, for consumer protection.

To me it was unacceptable.

I just want to respond to one or two points that the majority leader made, and then I will conclude my remarks.

This was not something just done on Friday. I just got this bill. I am not going to be bulldozed over as a Senator. I want to look and see what is in this piece of legislation. That is the responsible thing to do. And it certainly is true that those people, be they elderly people with disabilities, be they children, working poor people who are affected by low-income energy assistance may not have all the clout and make all the money and make all the contributions, deserve representation here in the U.S. Senate.

The cuts, I believe, are unconscionable. So this was not something I just come to on Friday. This has been a priority issue for me as a Senator from a cold weather State where many people are affected by these cuts for a long, long time. And will continue to be so.

Second, I care fiercely about the assistance for people in Oklahoma and California. We will be back to this bill. We all know it. Of course, we will be back to this bill. And, of course, there will be relief, and I have voted for that relief and will continue to do so. We all know we are going to be back on this piece of legislation—and we must. I hope there will be some discussion in the meantime and we can work out some reasonable compromise.

Finally, I have the utmost respect for the manager of the bill, the Senator from Oregon, and certainly for the Senator from West Virginia. But as to what happens in the future, we cannot be bound by the priorities and the parameters of what the House of Representatives is doing in these kinds of budget resolutions. We can make changes next year. I just simply tried to say today, and I will say it over and over again—I will shout it from the mountain top, from the floor of the Senate, if that is what is necessary—that these are distorted priorities. To ask some of the most vulnerable citizens in this country to tighten their belts when they cannot, to cut low-income energy assistance for people in my State, a cold weather State, and not even look for offsets? Not to restore that kind of funding? That is unacceptable to me.

So, I have no doubt that we will be back on this.

My final point would have been that by amendment, I would have on the first amendment talked about other

States, the number of people affected in Missouri, in Kansas, or in Minnesota by low-income housing energy assistance, or Illinois. I would have laid out some important data. I would have talked about real people who are behind these statistics, and I would have talked about offsets.

But in all due respect to the majority leader to come out at the end and say: I will roll them all into one amendment and have 10 minutes and then move to table—I do not legislate that way. I do not know too many Senators who really find that acceptable when it is the issue you have been working on for the people you are trying to represent.

So I hope that we will be back on this bill right away, and we will go forward with the discussion. I hope that we can work out a satisfactory agreement. In any case, I intend to keep on speaking and keep on fighting, not with malice, not with bitterness, but with dignity, and face the policy that I honestly believe in.

I yield the floor.

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Thank you very much.

Mr. President, this morning has been difficult for all of us. But I have to say that particularly when some of the pages came over and spoke to me a while ago, I could not help but be reminded of how it is, particularly in this U.S. Senate, in this legislative body, that one person really can make a difference.

And if a person, a Senator, cares deeply about something, then that Senator has the right and the opportunity to make the case, to make a point, and to raise the issue. Sometimes in raising the issue, it results in change. Sometimes it does not. But certainly, raising the issue is of primary and critical importance.

I have not been here long enough. But, at the same time, I am a Senator, and I was elected by my State. I am called on to be the voice for the people who sent me here, and to stand up for interests and concerns of the voters and citizens of my State.

I believe that it is of real importance to raise the fact that the decisions in this bill represent misplaced priorities, that it ought to have been changed, and that the priorities represented ought to have been changed. I mean no disrespect to my colleagues on the committee who came up with this compromise—I know they worked hard and I know they felt strongly and feel strongly about the particulars in this bill. But if anything, that is what legislation represents—ideas. That is what it is. It is an idea. If the idea has a flaw in it, then I think it is our obligation to get up and say there is something wrong with it.

That is why I came to the floor this morning with Senator WELLSTONE. I have and will continue to say that it is wrong to take money away from job training opportunities for our disadvantaged teenagers. I think it is wrong to take money away from senior citizens who may need heating assistance. I think it is wrong to say we are not going to start fixing up some of the schools that make it almost impossible for students to learn.

I also thought that while there are some things about this bill that were good, that we could find the money to take care of these priorities.

I came to the Senate floor with Senator WELLSTONE to try to offer some amendments. But, as you know, the procedures are sometimes convoluted; the procedures are sometimes complex.

The bottom line result was that we were not given an opportunity to actually have a vote on our amendments in the context of the amendment process, and the bill was pulled.

I thought we could go to the bill. I think Senator WELLSTONE is right, that the bill will come back, that we will have another shot at it at some point in time if, indeed, this is the will of the leadership. I certainly did not want—and I know Senator WELLSTONE did not want—to annoy anybody or to put anybody out or to impair anybody's plans for vacation. But we have a responsibility, it seems to me, to do everything that is within our power to speak to the ideas that get floated around here as legislation.

I think this is one of those critical moments, as we start the debate of what kind of march are we going to take down that road to deficit reduction, we must also engage in the debate of how are we going to march down that road? Are we going to march down that road together, as Americans with a shared sacrifice and everybody pitching in, or are we going to march down that road stepping on the backs of the feet of the teenagers, the senior citizens, the poor, the vulnerable, and the people who cannot necessarily speak for themselves?

I tell you, Mr. President, that I believe what happened here this morning, I hope that what happened here this morning, will help to shape the debate about how we go about achieving deficit reduction and how we get on that glidepath to a balanced budget; and that, in having come out here and exercised our rights as legislators, that Senator WELLSTONE and I reached our colleagues on the television sets in their offices, or wherever they are right now, that we reached some people to suggest that as we go down that path, we have to go down that path in a way that recognizes that our future as Americans is inextricably wound together and that we cannot, we must not, take more sacrifice from one group than another; that the contributions ought to be based on the ability to contribute; that we do not call on people who are already hanging on by their fingernails, call on the least able in our society to give the most; and that we can achieve this glidepath recognizing that investment in our people is the single most important investment we can make as Americans.

That I think is what this debate this morning was really about, or what we hoped it would be about. I had hoped to offer two amendments. Senator WELLSTONE also had amendments. We did not get that chance. But I know we will have a chance to do so. I hope we will have a chance to do so on this legislation or some other legislation as we go down this process, as we move toward adjournment.

Mr. President, I say to my colleagues, as we approach these issues, let us recognize that really we do have an obligation to talk to one another and to try to work these issues out in a way that is fair to all Americans—not just some Americans, but every American—including those who do not have the wherewithal to weigh in with lobbyists and the like.

I thank the Chair very much, and I yield the floor.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized for 10 minutes under the previous unanimous consent order.

Mr. ASHCROFT. I thank the Chair.

THE RESCISSIONS BILL

Mr. ASHCROFT. Mr. President, I am pleased to have this opportunity to make comments about the rescissions bill which has been before us but which has been withdrawn from consideration as a result of the unwillingness on the part of the Senator from Illinois and the Senator from Minnesota to allow amendments to be voted on.

Just moments ago, the Senator from Illinois said that there were amendments which she had prepared which she hoped she would have the opportunity to submit. I recall this morning having listened to the leader ask specifically that amendments be submitted. He asked not only that the Senator from Illinois submit amendments for consideration but asked that the Senator from Minnesota submit amendments for consideration. Over and over again, they would deny that they wanted to submit amendments; they would refuse to submit amendments.

Then I saw the leader, the majority leader, come to this podium and say I have heard the debate and I will craft an amendment which will reflect the concerns of the Senator from Illinois and the Senator from Minnesota, and I will submit that amendment so that we can have a vote so that the Senate can express itself in regard to the amendment, if I can have unanimous consent to do that.

The objections which were heard in this Chamber at that time were the objections from the very Senators who now say they were deprived of an opportunity to forward such concerns and have a vote on their concerns.

I find that to be confusing, and it is troublesome because every effort was made and every deference was given to those individuals in this Chamber to submit their own amendments.

Then absent their own capacity to submit their amendments, the majority leader generously offered to formulate and submit an amendment in their behalf so that there could be a vote reflecting those concerns, and they simply refused to allow those concerns to be reflected in an amendment.

I want the RECORD to be clear on this. Mr. President, the majority leader made the opportunity clear and made it expansive for amendments to be provided here. No amendments were offered.

Second, when the majority leader himself offered in their behalf an amendment and needed unanimous consent in order to so do, they objected to that amendment.

It is clear to me that the opportunity for amending the rescissions package was thorough and substantial, and that the majority leader bent over backwards in order to make those concerns not available as opportunities but to put them in a position and posture whereupon they could be voted. But the objection to that procedure was, in fact, made by those individuals who had later protested that they had not had the opportunity.

Let me just say that we have worked on this issue since early this morning, and that the rescissions bill is a bill, the content of which is well known. In general, it restores $772 million of proposed rescissions and cuts an additional $794 million in the fiscal year 1995 appropriations, for a total rescissions of $16.4 billion. It passed the House by a vote of 276 to 151.

The suggestion by individuals in this Chamber that you could not know what was in this bill, that there had been inadequate information or time for consideration, I do not believe, is an accurate suggestion.

The restored funding included $225 million for safe drinking water, $105 million to the so-called AmeriCorps volunteer program. That is what it costs us just in this bill in increased funding over our previous effort at rescissions to support the President's so-called volunteer program in which he pays each volunteer $15,000 a year. Of course, then it requires a $15,000 commitment to the bureaucracy to support that volunteer program.

There was $220 million in safe/drug free schools restored funding in this rescissions package; $120 million in education and job training that was restored in this rescissions package over the previous rescissions package.

It was interesting to hear objection raised that we are somehow depriving opportunities for job training, and the Senator from Minnesota said this was an unconscionable bill. I wonder if that is the way he views his President's recommendation that this bill be passed and assurance that he would sign the bill if the bill were to be presented to him.

When the Senator from Illinois talked about job training, I wonder if she was referring to the fact that $120 million was restored in this bill in the area of job training and that there was $102 million in community development block grants, and that this measure as a matter of fact had $39 million as an increase in the 1995 appropriations in miscellaneous housing, community and education programs.

Well, I could go on and on. Much was said this morning about a general who had spent $100,000 moving an airplane and asking that he be transported, and I do not think we ought to have generals abusing air travel privileges. That is why I think we ought to support this rescissions bill. This rescissions bill cuts $375 million in Government administration travel. We need to cut that. We need to delete that. And yet under the guise of complaining about travel abuses we have stopped the consideration of a bill which would cut $375 million in Government administrative travel.

I believe that the efforts have been counterproductive in this Chamber today. I believe that they have failed to achieve the purposes which they have stated—as a matter of fact, they have turned in on themselves. And the very things they said they sought to assist—job training, cutting abuses, travel abuses in the administration—as a matter of fact, would have been addressed in this rescissions bill, but we were simply denied the opportunity to consider them today.

They talked about LIHEAP, the energy program. What we really need to talk about today is the fact that we must make progress toward bringing Government spending into balance with Government resources, and in order to do that we are going to have to make some cuts. We are going to have to make some adjustments.

We are looking at the Fourth of July. That is Independence Day. We should be thinking about legislation in the context of independence. We should be thinking about legislation in the context of freeing ourselves from debt. This was an opportunity to free ourselves from expenditures totaling $9.3 billion, with a consensus reached by House leaders, by Senate leaders, by the White House, some way that we could begin to get a handle on the deficit, and we were refused.

One of the reasons is there is no willingness to cut the so-called LIHEAP program. Let us look at what LIHEAP represents.

Back in the 1970's, when energy prices more than doubled, there was a special program to take the sting out of the massive increase in energy costs. This was a special program to help people buy fuel oil for their homes. The price for energy now has gone below where it was before the crisis. And yet while the energy price has gone down, the LIHEAP program has gone up and up and up.

Eventually, if we are going to do what the people of this great Nation sent us here to do—and that is to get Government under control—we are at least going to have to look carefully at programs, the need for which is no longer existent but which grow as a result of the fact that bureaucrats who want to buy the favor of citizens continue to build and build and build the programs.

Mr. President, we have had today an opportunity which is sorely missed—missed because there are those who would have, they said, improved the future for our children. I do not think maintaining debt improves the future for America. Virtually every child born today faces interest payments on the Federal debt of nearly $200,000 over their lifetime. We must not saddle the yet unborn children whose wages are yet unearned with the burden, the incredible burden of that kind of weight, a weight in interest costs on the Federal debt.

We must get it under control. It is time for us to curtail the $4.9 trillion debt of this country, and the first step, the step agreed to by the House in an overwhelming vote, agreed to by the President of the United States, agreed to by the leadership of the Senate, was to make the $9.3 billion downpayment of rescissions.

It has been said loudly and sometimes very sincerely that we maybe did not need a balanced budget amendment. We simply needed to have the capacity to balance the budget. I wonder about our capacity. If we do not have the ability and discipline when we come to a negotiated conclusion about what can be done, what ought to be done to restrict spending, even by a small amount like $9.3 billion as it relates to the trillion dollar budget of this country, I wonder if we have much opportunity for success.

So I heard the debate this morning, the debate of apologies between individuals about, oh, it was terrible that we had to rescind these funds. I am here to say that I do not apologize for rescinding funds, funds that we can no longer spend at the expense of the next generation. It is time for us to be serious about curtailing the debt of the United States of America to save the next generation and their opportunities.

Independence Day is but a few days away. Unfortunately, independence from debt is not that close, but it is time for us to make a beginning.

Mr. President, happy Fourth of July.

The PRESIDING OFFICER. Thank you very much. The Senator's time has expired.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 10 minutes.

COMMENDING SCOTT BATES ON 25 YEARS OF SERVICE TO THE SENATE

Mr. BYRD. Mr. President, I thank the Chair. I rise to commend Scott Bates, our legislative clerk, on his outstanding 25 years of service to the U.S. Senate.

Scott Bates began his career in Washington as a summer intern in the bill clerk's office under Senator John L. McClellan's patronage in 1970. It was the beginning of a most auspicious match for both Scott and the Senate.

From the beginning, politics was in Scott's blood. His father, Paul Bates, served as a member of the Arkansas Legislature. Scott loved politics in school, and he served as a page in both the house and the senate of the Arkansas Legislature.

In 1975, Scott first began working at the Senate desk where he has continued working ever since. His contributions to this body and to its workings have been many and notable.

As the bill clerk of the Senate, Scott was instrumental in developing the first automated recordkeeping system in the Senate, later known as LEGIS. Scott Bates established the current method used here in the Senate for numbering amendments, and he has left his innovative mark on much of the printed material used on the Senate floor to aid us in our work, from rollcall tally sheets to the Senate calendar.

Although public service in general and careers in Washington have fallen out of favor, I believe that Scott Bates' life and work experience present a compelling case against the current cynicism about the many fine people who serve here in the Congress in various capacities. Their names are never in the papers. They experience few public kudos, and yet they work as long hours, probably longer, than we do. They are dedicated, capable, patriotic individuals who represent the best that America produces from all over this Nation.

Scott Bates is a fine example of what I am talking about. He was born and grew up in Pine Bluff, AR, where his parents, Paul and Mae Bates, still reside. As a lad, he participated in the Boy Scouts, achieving the high honor of Eagle Scout. He went farther than I went in the Scouts.

Scott personifies what we politicians like to refer to as ''family values.'' He has always been active in his church and has been married to his wife, Ricki, for 20 years this July. Scott and Ricki have three wonderful children—Lisa, Lori and Paul.

As all of us know, one of Scott's official duties as legislative clerk is to call the roll of the Senate during votes and during quorum calls. To his young son, Paul, this is obviously the most fascinating part of his dad's work. When once asked what his father did for a living, young Paul responded: ''My dad calls other people names.''

And he gets by with it. Nobody quarrels about it. Nobody criticizes this man for calling other people names.

Of course, the calling of the roll is only one small part of Scott's many duties and responsibilities, and he handles them all with aplomb and dignity.

To one of the very best of the many fine individuals who serve their country with distinction as dedicated employees of this body, I extend my heartiest congratulations on 25 years of outstanding service.

Along with the Members of the Senate and the legislative floor staff of the Office of the Secretary of the Senate, among whom Scott Bates is perceived as a leader and as a teacher, I express my hope that he will continue his fine work with the Senate for many more years to come.

Mr. President,

It isn't enough to say in our hearts
That we like a man for his ways;
Nor is it enough that we fill our minds
With psalms of silent praise;
Nor is it enough that we honor a man
As our confidence upward mounts;
As going right up to the man himself
And telling him so that counts.

Then when a man does a deed that you really admire,
Don't leave a kind word unsaid.
For fear to do so might make him vain
And cause him to lose his head.
But reach out your hand and tell him, ''Well done.''
And see how his confidence swells.
It isn't the flowers that we strew on the grave,
It's the word to the living that tells.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I have a series of short statements that I would like to make. I know the hour is late.

TRIBUTE TO ROBERT W. McCORMICK

Mr. DOLE. Mr. President, I rise today with great pleasure to honor a dedicated public servant on the occasion of his retirement. Mr. Robert W. McCormick, Director of the U.S. Senate Telecommunications Department, has more than 38 years' experience in the field of telecommunications. He served 26 years active duty in the U.S. Army, including 13 years with the White House Communications Agency under four Presidents. During his more than 12 years as Director of the Senate Telecommunications Department, serving under seven Sergeants at Arms, Bob McCormick has been responsible for the planning, research, testing, and delivery of telecommunications equipment and services for all Washington, DC, Senate offices, and the approximately 400 State offices.

While Bob McCormick's accomplishments are too numerous to specifically mention all of them, I would like to highlight a few of his major achievements. He directed the installation of a state-of-the-art digital telephone switch and sets for Washington, DC, offices in 1986–87. Soon thereafter, he oversaw installation of the FaxXchange system; the Senate Voice Mail System; and the Cloakroom and Sergeant at Arms Group Alert systems that are integrated into the telephone system. In 1993, he was given responsibility for the U.S. Capitol Police Radio System and for the Senate's data communications network. Under his leadership, the Capitol Police radio system has been upgraded. Senate data communications are being transmitted by the faster, reliable, and less expensive frame relay service.

During his directorship, he has negotiated approximately a 50-percent reduction in Senate long-distance per-minute rates—for both Washington, DC, and State offices. He has also achieved substantial savings in the cost of data communications by converting to the frame relay network.

There is a saying that when goodness and skill work together, expect a masterpiece. Bob McCormick is a masterpiece. Not only has he been a model public servant, but also he is a devoted husband, father, and grandfather. He is an active member of church and community organizations in Queen Anne's County, MD, where he and his wife, Mary Ann, live on a farm.

I ask my colleagues to join me in thanking Bob McCormick for his years of public service and wishing him well on his retirement.

TRADE NEGOTIATIONS WITH JAPAN

Mr. DOLE. Mr. President, victory was declared on Wednesday in the trade negotiations with Japan. But I think a lot of Americans are wondering ''in favor of which side?''

A lot of Americans are wondering exactly what did the United States get after years of tough talk and threats?

A closer look reveals that after 2½ years of negotiations, the final agreement is vague, unenforceable, nonbinding—in short, it is virtually empty.

Mr. President, Japanese car manufacturers apparently promised to increase production at their transplant operations in the United States. But for the most part, the promised increases may be no more than what was already planned. It is hard to see why the threat of a major trade war was necessary to persuade the Japanese to do what they already had announced.

Mr. President, the U.S. negotiators claimed to have reached landmark agreements in the areas of auto parts and dealerships. But the Japanese immediately issued disclaimers, emphasizing that any commitments were not government commitments, carry no

government backing, and are not enforceable.

The U.S. negotiators announced an estimate of expected increases in sales of auto parts under the agreement. Incredibly, the Japanese negotiator then specifically disavowed the United States estimate. He said the United States estimate was shared ''neither by the minister himself nor by the government of Japan.''

Mr. President, it makes one wonder, who were we negotiating with? One report this morning states that some Japanese officials ''expressed amazement that the U.S. accepted the final deal.''

Is this the ''specific, measurable, concrete'' deal the President promised?

If the estimated increases in parts purchases fail to occur, there are no consequences. If the number of dealerships does not increase, Japan faces no penalties. If the United States estimates in any of these categories do not materialize—well, the Japanese never acknowledged those United States estimates in the first place. And a joint United States-Japan statement adds the ultimate qualifier: Both sides agreed to recognize that ''changes in market conditions may affect the fulfillment of these plans.''

Mr. President, the bottom line is that this agreement does very little, if anything, to address the continuing problem of market access in Japan. After this agreement is in place, Japan will remain the most closed major industrial economy in the world. Japan will remain a sanctuary economy with the lowest level among all industrial nations of import penetration across numerous industry sectors.

This agreement does nothing to address the continuing problem of Japanese cartel-like behavior in their home market. It does nothing to address the restrictive business practices that effectively block United States companies from penetrating the Japanese market. And it does nothing to encourage, not to mention require, the Japanese Government to take any action against those practices.

Mr. President, we went to the brink of a trade war with one of our most important trading partners and would up with vague promises that cannot be enforced. I hope this is not a model for future efforts to get tough against closed foreign markets.

HEARINGS REVEAL CLINTON DRUG STRATEGY FAILING

Mr. DOLE. Mr. President, Congressman BILL ZELIFF has just held 2 days of outstanding hearings on the President's national drug control strategy. I think those hearings were very important, and the American people ought to know what Congressman ZELIFF and his National Security Subcommittee discovered.

You may remember that it was BILL ZELIFF who invited Nancy Reagan and a number of other drug experts from around the country to testify in March of this year, and who held an all-day hearing in April with Dr. Lee Brown, the White House drug czar.

Mrs. Reagan testified that we have to get back on track, and she was right. The fact is that drug use fell each year of the Reagan administration, and up until 1992, it continued to fall. For example, monthly cocaine use dropped from 2.9 million users in 1988 to 1.3 million in 1992. Overall drug use dropped from 22.3 million users in 1985 to 11.4 million users in 1992.

Drug use has gone up with 17 and 18 year olds, 15 and 16 year olds, 13 and 14 year olds. Now we are spending less on drug interdiction programs in this administration.

But, as Congressman Zeliff's hearings highlighted, drug use since 1993 has been steadily rising. A 1994 survey of 51,000 kids showed use of LSD, non-LSD hallucinogens, stimulants, and marijuana all up. Cocaine street prices continue to fall, while cocaine emergency room admissions are at historically high levels. In 1994, twice the number of 8th graders were experimenting with marijuana than in 1991, and daily use by seniors was up 50 percent between December 1993 and December 1994.

During his hearings, Congressman Zeliff also turned up these disturbing facts:

First, the head of DEA, Administrator Constantine, admitted that exploding drug use in this country and international drug cartels should be seen as our No. 1 national security threat. Administrator Constantine also admitted that rising casual drug use among U.S. kids is a timebomb waiting to explode.

Second, the President's interdiction coordinator, Admiral Kramek, admitted that his office, which is supposed to coordinate the whole Nation's drug interdiction effort, has just six full-time employees—and that the administration's interdiction effort has been cut for 3 straight years.

Third, officials at the DEA, the President's interdiction coordinator, and the head of U.S. Customs all suggest that President Clinton's drug strategy is not fulfilling stated expectations.

Fourth, the General Accounting Office has released a report confirming that the administration's anti-drug strategy in the source countries is badly managed, poorly coordinated among agencies, and holds low priority in key embassies, including the U.S. Embassy in Mexico—despite the fact that 70 percent of the cocaine coming into the United States comes over the border with Mexico.

Mr. President, I want to commend Chairman Zeliff for convening these important hearings. The hearings are a wake-up call to all of us in Congress that we must regain the offensive and renew our commitment to the war on drugs.

AMERICA'S 219TH BIRTHDAY

Mr. DOLE. Mr. President, next Tuesday, in homes, neighborhoods, and communities across the country, Americans will celebrate Independence Day.

And since the Senate will not be in session on America's birthday, I wanted to take a minute today to share some very meaningful words with my colleagues.

The words are not mine. Rather, they were first written in 1955, as a public relations advertisement for what is now the Norfolk Southern Corp. The words have been updated slightly since that time, and they eloquently encompass what America is all about.

I was born on July 4, 1776, and the Declaration of Independence is my birth certificate. The bloodlines of the world run in my veins, because I offered freedom to the oppressed. I am many things, and many people. I am the Nation . . .

I am Nathan Hale and Paul Revere. I stood at Lexington and fired the shot heard around the world. I am Washington, Jefferson, and Patrick Henry. I am John Paul Jones, the Green Mountain Boys and Davy Crockett. I am Lee and Grant and Abe Lincoln.

I remember the Alamo, the Maine and Pearl Harbor. When freedom called I answered and stayed until it was over, over there. I left my heroic dead in Flanders Fields, on the rock of Corregidor, on the bleak slopes of Korea, and in the steaming jungles of Vietnam.

I am the Brooklyn Bridge, the wheat fields of Kansas, and the granite hills of Vermont. I am the coalfields of the Virginias and Pennsylvania, the fertile lands of the west, the Golden Gate and the Grand Canyon. I am Independence Hall, the Monitor and the Merrimac.

I am big. I sprawl from the Atlantic to the Pacific . . . my arms reach out to embrace Alaska and Hawaii. Three million square miles throbbing with industry. I am millions of farms. I am forest, field, mountain and desert. I am quiet villages—and cities that never sleep.

You can look at me and see Ben Franklin walking down the streets of Philadelphia with his breadloaf under his arm. You can see Betsy Ross with her needle. You can see the lights of Christmas, and hear the strains of ''Auld Lang Syne'' as the calendar turns.

I am Babe Ruth and the World Series. I am 110,000 schools and colleges, and 330,000 churches where my people worship God as they think best. I am a ballot dropped in a box, the roar of a crowd in a stadium, and the voice of a choir in a cathedral. I am an editorial in a newspaper and a letter to a congressman.

I am Eli Whitney and Stephen Foster. I am Tom Edison, Albert Einstein, and Billy Graham. I am Horace Greeley, Will Rogers, and the Wright brothers. I am George Washington Carver, Jonas Salk, and Martin Luther King.

I am Longfellow, Harriet Beecher Stowe, Walt Whitman and Thomas Paine.

Yes, I am the Nation, and these are the things that I am. I was conceived in freedom and, God willing, in freedom I will spend the rest of my days.

May I possess always the integrity, the courage, and the strength to keep myself unshackled, to remain a citadel of freedom, and a beacon of hope to the world.

Mr. President, I know all Senators join with me in wishing America a happy 219th birthday.

REVIEW OF 104TH CONGRESS

Mr. DOLE. Finally, Mr. President, we have now completed 6 months work in the U.S. Senate and the Congress.

Mr. President, as we prepare to return to our States for the July 4 recess, I wanted to take just a minute to review the last 6 months, and to look ahead to the 6 that remain in this year.

When Republicans asked Americans to put Congress under new management for the first time in 40 years, Mr. President, we promised that we were a different way of doing business. We promised we would not stand for the status quo. We promised we would bring change to Capitol Hill.

We have kept those promises. We have kept our word. We have brought change to Capitol Hill.

One change we brought was in our work load. In past sessions, Congress would convene in January, and then take it easy for a month or two. This Congress put an end to that. We hit the ground running.

From January 5 through June 28, the Senate has been in session for 106 days, meeting for a total of 933 hours and 52 minutes—that is 21 more days and nearly 350 more hours than the Senate spent in session from January 5 through June 30, 1993—the first 6 months of the fist session of the 103d Congress.

What has the Senate accomplished in that time? Well, one thing we have not done is pass more legislation than the previous Senate. And that is a good thing. Because the people did not send us here to pass more laws that mean more regulations and more Government. They sent us here to rein in the Federal bureaucracy, and to return power to States, to communities, and to the people.

And that is exactly what we have done.

we began by leading by example, passing the Congressional Accountability Act, which will subject Congress to the same laws we impose on everybody else.

We put an end to the practice of sending Federal mandates to our States and local Governments, but not sending along the money to pay for them.

We passed the Paperwork Reduction Act, which will help to reduce redtape.

We passed the line-item veto legislation, which will result in the reduction of unnecessary Federal spending.

We took the first step to reforming a civil litigation system that is out of balance, out of control, and out of common sense.

In the wake of the terrible tragedy in Oklahoma city, we moved quickly to pass antiterrorism legislation. Legislation that we can be just as proud of 10 years from now, as we are today, and legislation that included historic habeas corpus reform.

We passed a telecommunications bill that reduces Government interference in that fast growing industry.

And, of course, we passed a historic budget resolution that sets America on a 7 year path to a balanced budget.

This is just a partial list of legislation we have passed this session. All in all, not a bad start.

And let me assure the American people it is just that. A start. Republicans know we have much to do before the end of this first session.

This includes regulatory reform. Welfare reform. A tough anticrime bill. A congressional gift ban and lobby reform. And the appropriations bills, which will offer final proof that we are serious about balancing the budget. And speaking of that, we have not given up on passing the balanced budget amendment.

Teddy Roosevelt once said that ''the best prize life has to offer is the chance to work hard at work worth doing.'' I guarantee to my colleagues that over the next 6 months we'll have an opportunity to win that best prize, because we will continue to work hard at work worth doing. The American people deserve no less.

Mr. President, I ask unanimous consent that a listing of some of the important legislation adopted by the Senate this session be printed in the RECORD following my remarks.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

BILLS CONSIDERED AND PASSED IN THE SENATE (104TH CONGRESS)

H.R. 1(S. 2), Congressional Accountability.
H.R. 421, Alaska Native Claims Settlement.
H.R. 483, Medicare Select.
H.R. 517, Chacoan Outliers Protection Act.
H.R. 831, Self-Employed Health Insurance.
H.R. 889, Emergency Supplemental and Recissions.
H.R. 956, Common Sense Legal Reform.
H.R. 1158, Emergency Supplemental/Disaster Relief.
H.R. 1240, Sex Crimes Against Children Prevention Act.
H.R. 1345, D.C. Financial Responsibility and Management Act.
H.R. 1380, Truth in Lending.
H.R. 1421, Statute References and Jurisdictional Changes.
S. Con. Res. 13, Budget Resolution (Domenici).
S. 1, Unfunded Mandates.
S. 4, Line Item Veto.
S. 103, Lost Creek Land Exchange Act.
S. 178, Reauthorization Act of 1995.
S. 184, Rare Disease Research Act.
S. 219, Regulatory Transition.
S. 244, Paperwork Reduction Act.
S. 257, Veterans of Foreign Wars (South Korea).
S. 268, Triploid Grass Carp Certification Inspections.
S. 273, Amend Section 61h–6, of Title 2, U.S. Code.
S. 349, Navajo-Hopi Relocation Housing Program.
S. 377, Elementary/Secondary Education (Indian Education).
S. 395, Alaska Power Administration.
S. 440, National Highway System Designation Act.
S. 441, Indian Child Protection and Family Violence Protection.
S. 464, Reporting Deadlines.
S. 510, Native Americans Programs Act (Reauthorization).
S. 523, Colorado River Basin Salinity Control Act.
S. 532, Clarifying Rules Governing Venue.
S. 534, Interstate Transportation Solid Waste.
S. 652, Telecommunications.
S. 735, Terrorism.
S. 962, Extension, Middle East Peace Facilitation.
S. Con. Res. 67, FY96 Budget Resolution Conference Report.

Mr. DOLE. Mr. President, I might add, that list does not include many of the nominations we have acted on, too.

MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent there be a period for the transaction of morning business not to exceed 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF PROPOSED LEGISLATION ENTITLED ''THE SAVING LAW ENFORCEMENT OFFICERS' LIVES ACT OF 1995''—MESSAGE FROM THE PRESIDENT—PM 60

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on the Judiciary.

To the Congress of the United States:

Today I am transmitting for your immediate consideration and passage the ''Saving Law Enforcement Officers' Lives Act of 1995.'' This Act would limit the manufacture, importation, and distribution of handgun ammunition that serves little sporting purpose, but which kills law enforcement officers. The details of this proposal are described in the enclosed section-by-section analysis.

Existing law already provides for limits on ammunition based on the specific materials from which it is made. It does not, however, address the problem of excessively powerful ammunition based on its performance.

Criminals should not have access to handgun ammunition that will pierce the bullet-proof vests worn by law enforcement officers. That is the standard by which so-called ''cop-killer'' bullets are judged. My proposal would

limit the availability of this ammunition.

The process of designating such ammunition should be a careful one and should be undertaken in close consultation with all those who are affected, including representatives of law enforcement, sporting groups, the industries that manufacture bullet-proof vests and ammunition, and the academic research community. For that reason, the legislation requires the Secretary of the Treasury to consult with the appropriate groups before regulations are promulgated. The legislation also provides for congressional review of the proposed regulations before they take effect.

This legislation will save the lives of law enforcement officers without affecting the needs of legitimate sporting enthusiasts. I urge its prompt and favorable consideration by the Congress.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 30, 1995*.

REPORT ON PROGRESS CONCERNING EMIGRATION LAWS AND POLICIES OF THE RUSSIAN FEDERATION—MESSAGE FROM THE PRESIDENT—PM 61

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance.

To the Congress of the United States:

On September 21, 1994, I determined and reported to the Congress that the Russian Federation is in full compliance with the freedom of emigration criteria of sections 402 and 409 of the Trade Act of 1974. This action allowed for the continuation of most-favored-nation (MFN) status for Russia and certain other activities without the requirement of a waiver.

As required by law, I am submitting an updated Report to Congress concerning the emigration laws and policies of the Russian Federation. You will find that the report indicates continued Russian compliance with U.S. and international standards in the area of emigration.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 30, 1995*.

MESSAGES FROM THE HOUSE

At 9:54 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, which it requests the concurrence of the Senate:

H.R. 1944. An act making emergency supplemental appropriations for additional disaster assistance, for antiterrorism initiatives, for assistance in the recovery from the tragedy that occurred at Oklahoma City, and making rescissions for the fiscal year ending September 30, 1995, and for other purposes.

The message also announced that the House has passed the following bill; without amendment:

S. 962. An act to extend authorities under the Middle East Peace Facilitation Act of 1994 until August 15, 1995.

ENROLLED BILL SIGNED

At 1:52 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 962. An act to extend authorities under the Middle East Peace Facilitation Act of 1994 until August 15, 1995.

The enrolled bill was signed on June 30, 1995, by the President pro tempore (Mr. THURMOND).

At 3:01 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the following concurrent resolutions, without amendment:

S. Con. Res. 19. Concurrent resolution to correct the enrollment of the bill H.R. 483.

S. Con. Res. 20. Concurrent resolution providing for a conditional recess or adjournment of the Senate on Thursday, June 29, 1995, or Friday, June 30, 1995, until Monday, July 10, 1995, and a conditional adjournment of the House on the legislative day of Friday, June 30, 1995, until Monday, July 10, 1995.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 483) to amend title XVIII of the Social Security Act to permit Medicare Select policies to be offered in all States, and for other purposes.

The message further announced that pursuant to section 211(B)(f), Public Law 101—515 as amended by section 260001, Public Law 103–322, the minority leader appoints Mr. Darryl Jones of Upper Marlboro, MD, from private life, representing law enforcement officers to the National Commission to Support Law Enforcement on the part of the House.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on June 30, 1995 he had presented to the President of the United States, the following enrolled bill:

S. 962. An act to extend authorities under the Middle East Peace Facilitation Act of 1994 until August 15, 1995.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1138. A communication from the Secretary of Energy, transmitting, pursuant to law, the report entitled ''Energy Efficient Environmental Program for Pollution Prevention in Industry''; to the Committee on Energy and Natural Resources.

EC–1139. A communication from the Secretary of the Interior, transmitting, pursuant to law, the report entitled ''Outer Continental Shelf Lease Sales: Evaluation of Bidding Results and Competition''; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 638. A bill to authorize appropriations for United States insular areas, and for other purposes (Rept. No. 104–101).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on Armed Services.

Vicent Reed Ryan, Jr., of Texas, to be a Member of the Board of Directors of the Panama Canal Commission.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PRYOR (for himself, Mr. HATCH, Mr. BREAUX, and Mr. LEAHY):

S. 1006. A bill to amend the Internal Revenue Code of 1986 to simplify the pension laws, and for other purposes; to the Committee on Finance.

By Mr. KERRY:

S. 1007. A bill to restrict the closure of Coast Guard small boat stations, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. INOUYE:

S. 1008. A bill to amend title 10, United States Code, to provide for appointments to the military service academies by the Resident Representative to the United States for the Commonwealth of the Northern Mariana Islands; to the Committee on Armed Services.

By Mr. D'AMATO:

S. 1009. A bill to prohibit the fraudulent production, sale, transportation, or possession of fictitious items purporting to be valid financial instruments of the United States, foreign governments, States, political subdivisions, or private organizations, to increase the penalties for counterfeiting violations, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. STEVENS (for himself and Mr. MURKOWSKI):

S. 1010. A bill to amend the ''unit of general local government'' definition for Federal payments in lieu of taxes to include unorganized boroughs in Alaska and for other purposes; to the Committee on Labor and Human Resources.

By Mr. CRAIG (for himself, Mr. HEFLIN, Mr. LUGAR, and Mr. LEAHY):

S. 1011. A bill to help reduce the cost of credit to farmers by providing relief from antiquated and unnecessary regulatory burdens

for the Farm Credit System, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. D'AMATO (for himself and Mr. MOYNIHAN):

S. 1012. A bill to extend the time for construction of certain FERC licensed hydro projects; to the Committee on Energy and Natural Resources.

By Mr. CONRAD (for himself and Mr. DORGAN):

S. 1013. A bill to amend the Act of August 5, 1965, to authorize the Secretary of the Interior to acquire land for the purpose of exchange for privately held land for use as wildlife and wetland protection areas, in connection with the Garrison diversion unit project, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. NICKLES:

S. 1014. A bill to improve the management of royalties from Federal and Outer Continental Shelf oil and gas leases, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. JOHNSTON:

S. Res. 146. A resolution designating the week beginning November 19, 1995, and the week beginning on November 24, 1996, as ''National Family Week'', and for other purposes; to the Committee on the Judiciary.

By Mr. THURMOND:

S. Res. 147. A resolution designating the weeks beginning September 24, 1995, and September 22, 1996, as ''National Historically Black Colleges and Universities Week'', and for other purposes; to the Committee on the Judiciary.

By Mr. HELMS:

S. Res. 148. A resolution expressing the sense of the Senate regarding the arrest of Harry Wu by the Government of the People's Republic of China; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PRYOR (for himself, Mr. HATCH, Mr. BREAUX and Mr. LEAHY): S. 1006. A bill to amend the Internal Revenue Code of 1986 to simplify the pension laws, and for other purposes; to the Committee on Finance.

THE PENSION SIMPLIFICATION ACT OF 1995

Mr. PRYOR. Mr. President, today I rise to introduce the Pension Simplification Act of 1995. This very important legislation is designed to simplify the tax laws governing our Nation's private retirement system.

This legislation is the result of the efforts of many, and these efforts date back to March of 1990 when I first held hearings in the Finance subcommittee on private retirement plans.

Later, in the summer of 1990, I introduced the Employee Benefits Simplification Act, S. 2901. As a matter of history, many experts, including pension planners for small and large businesses, logged countless hours to help me develop this legislation, and many organizations pushed to get this legislation enacted into law.

In the 102d Congress, I reintroduced this legislation as the Employee Benefits Simplification and Expansion Act of 1991. In early 1992, this legislation was included in the Tax Fairness and Economic Growth Act of 1992, which was H.R. 4210, and which was passed by the Congress, but it was vetoed by President Bush for reasons not associated with this particular piece of the overall tax bill.

During the summer of 1992, portions of the simplification effort were passed as part of the 1992 Unemployment Compensation Act. This legislation was then designed to liberalize the rollover rules which allow the worker the ability to take his pension benefits with him or her when they change jobs.

Later that year, the remainder of the simplification bill was included as part of the Revenue Act of 1992, which was H.R. 11, also passed by Congress, also vetoed by President Bush for reasons not related to the substance of this legislation.

Since that time, there has been no tax bill which could include the as-yet-unpassed provisions of the simplification effort.

Today, Mr. President, I am very happy to be joined by Senator ORRIN HATCH of Utah, Senator BREAUX of Louisiana, and Senator LEAHY of Vermont in introducing this legislation as the Pension Simplification Act of 1995. This bill includes many of the provisions passed two times by Congress in 1992, but it also includes some very new and important provisions, which evidences our continuing effort to simplify the very complex and arcane pension rules. To some, this in itself is an extremely arcane issue, but to small businesses across our great country it is a critical part of doing business. And it is that part of business which provides for savings and retirement funds ultimately for millions of employees.

This act is the next significant step toward reducing the costs associated with providing pension benefits. The legislation achieves this result by eliminating many of the complexities and the inconsistencies in the private pension system which will in turn promote the establishment of new pension plans by both large and small companies.

While this legislation affects both small and large businesses, who provide retirement plans for their workers, new provisions in this bill specifically target complex and costly rules affecting small business, and there is very good reason for this action in this legislation.

In 1993, 83 percent of the companies with 100 or more employees offered some type of retirement plan. In contrast, in businesses with fewer than 25 employees, only 19 percent of those firms had an employer-provided pension plan available to them, and only 15 percent of these employees even participated in those plans.

The major factor contributing to this dismal statistic is the sky-high per-participant cost of establishing and maintaining a pension plan for small business. The Pension Simplification Act alleviates the high-cost barriers for small business by creating a tax credit which can be applied toward the start-up costs of providing a new plan for employers with 50 or fewer employees. Of course, this is geared toward and focused on small business.

Next, the legislation slashes extensive annual nondiscrimination testing requirements for firms where no employee is highly compensated. These provisions, Mr. President, combined with the broad simplification provisions for all plans, will significantly reduce the costs of starting up and maintaining a retirement plan. Thus, this bill we are introducing today encourages private retirement savings for our Nation's small business worker.

Mr. President, rather than continuing a discussion of the many detailed provisions of the Pension Simplification Act of 1995, I ask unanimous consent that a 5-page summary of the legislation and a copy of the Pension Simplification Act of 1995 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1006

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Pension Simplification Act of 1995''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

TITLE I—SIMPLIFICATION OF NONDISCRIMINATION PROVISIONS

SEC. 101. DEFINITION OF HIGHLY COMPENSATED EMPLOYEES; REPEAL OF FAMILY AGGREGATION.

(a) IN GENERAL.—Paragraph (1) of section 414(q) (defining highly compensated employee) is amended to read as follows:

''(1) IN GENERAL.—The term 'highly compensated employee' means any employee who—

''(A) was a 5-percent owner at any time during the year or the preceding year,

''(B) had compensation for the preceding year from the employer in excess of $80,000, or

''(C) was the most highly compensated officer of the employer for the preceding year.

The Secretary shall adjust the $80,000 amount under subparagraph (B) at the same time and in the same manner as under section 415(d), except that the base period shall be the calendar quarter beginning October 1, 1995.''

(b) SPECIAL RULE WHERE NO EMPLOYEE HAS COMPENSATION OVER SPECIFIED AMOUNT.—Paragraph (2) of section 414(q) is amended to read as follows:

''(2) SPECIAL RULE IF NO EMPLOYEE HAS COMPENSATION OVER SPECIFIED AMOUNT.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), if a defined benefit plan or a defined contribution plan meets the requirements of sections 401(a)(4) and 410(b) with respect to the availability of contributions, benefits, and other plan features, then for all other purposes, subparagraphs (A) and (C) of paragraph (1) shall not apply to such plan.

''(B) EXCEPTION.—Subparagraph (A) shall not apply to a plan to the extent provided in regulations that are prescribed by the Secretary to prevent the evasion of the purposes of this paragraph.''

(c) REPEAL OF FAMILY AGGREGATION RULES.—

(1) IN GENERAL.—Paragraph (6) of section 414(q) is hereby repealed.

(2) COMPENSATION LIMIT.—Paragraph (17)(A) of section 401(a) is amended by striking the last sentence.

(3) DEDUCTION.—Subsection (l) of section 404 is amended by striking the last sentence.

(d) CONFORMING AMENDMENTS.—

(1) Paragraphs (4), (5), (8), and (12) of section 414(q) are hereby repealed.

(2)(A) Section 414(r) is amended by adding at the end the following new paragraph:

''(9) EXCLUDED EMPLOYEES.—For purposes of this subsection, the following employees shall be excluded:

''(A) Employees who have not completed 6 months of service.

''(B) Employees who normally work less than 17½ hours per week.

''(C) Employees who normally work not more than 6 months during any year.

''(D) Employees who have not attained the age of 21.

''(E) Except to the extent provided in regulations, employees who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and the employer.

Except as provided by the Secretary, the employer may elect to apply subparagraph (A), (B), (C), or (D) by substituting a shorter period of service, smaller number of hours or months, or lower age for the period of service, number of hours or months, or age (as the case may be) specified in such subparagraph.''

(B) Subparagraph (A) of section 414(r)(2) is amended by striking ''subsection (q)(8)'' and inserting ''paragraph (9)''.

(3) Section 1114(c)(4) of the Tax Reform Act of 1986 is amended by adding at the end the following new sentence: ''Any reference in this paragraph to section 414(q) shall be treated as a reference to such section as in effect before the Pension Simplification Act of 1995.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1995, except that in determining whether an employee is a highly compensated employee for years beginning in 1996, such amendments shall be treated as having been in effect for years beginning in 1995.

SEC. 102. DEFINITION OF COMPENSATION FOR SECTION 415 PURPOSES.

(a) GENERAL RULE.—Section 415(c)(3) (defining participant's compensation) is amended by adding at the end the following new subparagraph:

''(D) CERTAIN DEFERRALS INCLUDED.—For purposes of this section, the terms 'compensation' and 'earned income' shall include—

''(i) any elective deferral (as defined in section 402(g)(3)), and

''(ii) any amount which is contributed by the employer of the election of the employee and which is not includible in the gross income of the employee under section 125 or 457.''

(b) CONFORMING AMENDMENTS.—

(1) Section 414(q)(7) is amended to read as follows:

''(7) COMPENSATION.—For purposes of this subsection, the term 'compensation' has the meaning given such term by section 415(c)(3).''

(2) Section 414(s)(2) is amended by inserting ''not'' after ''elect'' in the text and heading thereof.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1995.

SEC. 103. MODIFICATION OF ADDITIONAL PARTICIPATION REQUIREMENTS.

(a) GENERAL RULE.—Section 401(a)(26)(A) (relating to additional participation requirements) is amended to read as follows:

''(A) IN GENERAL.—In the case of a trust which is a part of a defined benefit plan, such trust shall not constitute a qualified trust under this subsection unless on each day of the plan year such trust benefits at least the lesser of—

''(i) 50 employees of the employer, or

''(ii) the greater of—

''(I) 40 percent of all employees of the employer, or

''(II) 2 employees (or if there is only 1 employee, such employee).''

(b) SEPARATE LINE OF BUSINESS TEST.—Section 401(a)(26)(G) (relating to separate line of business) is amended by striking ''paragraph (7)'' and inserting ''paragraph (2)(A) or (7)''.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 1995.

SEC. 104. NONDISCRIMINATION RULES FOR QUALIFIED CASH OR DEFERRED ARRANGEMENTS AND MATCHING CONTRIBUTIONS.

(a) ALTERNATIVE METHODS OF SATISFYING SECTION 401(k) NONDISCRIMINATION TESTS.—Section 401(k) (relating to cash or deferred arrangements) is amended by adding at the end the following new paragraph:

''(11) ALTERNATIVE METHODS OF MEETING NONDISCRIMINATION REQUIREMENTS.—

''(A) IN GENERAL.—A cash or deferred arrangement shall be treated as meeting the requirements of paragraph (3)(A)(ii) if such arrangement—

''(i) meets the contribution requirements of subparagraph (B) or (C), and

''(ii) meets the notice requirements of subparagraph (D).

''(B) MATCHING CONTRIBUTIONS.—

''(i) IN GENERAL.—The requirements of this subparagraph are met if, under the arrangement, the employer makes matching contributions on behalf of each employee who is not a highly compensated employee in an amount equal to—

''(I) 100 percent of the elective contributions of the employee to the extent such elective contributions do not exceed 3 percent of the employee's compensation, and

''(II) 50 percent of the elective contributions of the employee to the extent that such elective contributions exceed 3 percent but do not exceed 5 percent of the employee's compensation.

''(ii) RATE FOR HIGHLY COMPENSATED EMPLOYEES.—The requirements of this subparagraph are not met if, under the arrangement, the matching contribution with respect to any elective contribution of a highly compensated employee at any level of compensation is greater than that with respect to an employee who is not a highly compensated employee.

''(iii) ALTERNATIVE PLAN DESIGNS.—If the matching contribution with respect to any elective contribution at any specific level of compensation is not equal to the percentage required under clause (i), an arrangement shall not be treated as failing to meet the requirements of clause (i) if—

''(I) the level of an employer's matching contribution does not increase as an employee's elective contributions increase, and

''(II) the aggregate amount of matching contributions with respect to elective contributions not in excess of such level of compensation is at least equal to the amount of matching contributions which would be made if matching contributions were made on the basis of the percentages described in clause (i).

''(C) NONELECTIVE CONTRIBUTIONS.—The requirements of this subparagraph are met if,

under the arrangement, the employer is required, without regard to whether the employee makes an elective contribution or employee contribution, to make a contribution to a defined contribution plan on behalf of each employee who is not a highly compensated employee and who is eligible to participate in the arrangement in an amount equal to at least 3 percent of the employee's compensation.

''(D) NOTICE REQUIREMENT.—An arrangement meets the requirements of this paragraph if, under the arrangement, each employee eligible to participate is, within a reasonable period before any year, given written notice of the employee's rights and obligations under the arrangement which—

''(i) is sufficiently accurate and comprehensive to appraise the employee of such rights and obligations, and

''(ii) is written in a manner calculated to be understood by the average employee eligible to participate.

''(E) OTHER REQUIREMENTS.—

''(i) WITHDRAWAL AND VESTING RESTRICTIONS.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) unless the requirements of subparagraphs (B) and (C) of paragraph (2) are met with respect to all employer contributions (including matching contributions).

''(ii) SOCIAL SECURITY AND SIMILAR CONTRIBUTIONS NOT TAKEN INTO ACCOUNT.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) unless such requirements are met without regard to subsection (l), and, for purposes of subsection (l), employer contributions under subparagraph (B) or (C) shall not be taken into account.

''(F) OTHER PLANS.—An arrangement shall be treated as meeting the requirements under subparagraph (A)(i) if any other plan maintained by the employer meets such requirements with respect to employees eligible under the arrangement.''

(b) ALTERNATIVE METHODS OF SATISFYING SECTION 401(m) NONDISCRIMINATION TESTS.—Section 401(m) (relating to nondiscrimination test for matching contributions and employee contributions) is amended by redesignating paragraph (10) as paragraph (11) and by adding after paragraph (9) the following new paragraph:

''(10) ALTERNATIVE METHOD OF SATISFYING TESTS.—

''(A) IN GENERAL.—A defined contribution plan shall be treated as meeting the requirements of paragraph (2) with respect to matching contributions if the plan—

''(i) meets the contribution requirements of subparagraph (B) or (C) of subsection (k)(11),

''(ii) meets the notice requirements of subsection (k)(11)(D), and

''(iii) meets the requirements of subparagraph (B).

''(B) LIMITATION ON MATCHING CONTRIBUTIONS.—The requirements of this subparagraph are met if—

''(i) matching contributions on behalf of any employee may not be made with respect to an employee's contributions or elective deferrals in excess of 6 percent of the employee's compensation,

''(ii) the level of an employer's matching contribution does not increase as an employee's contributions or elective deferrals increase, and

''(iii) the matching contribution with respect to any highly compensated employee at a specific level of compensation is not greater than that with respect to an employee who is not a highly compensated employee.''

(c) YEAR FOR COMPUTING NONHIGHLY COMPENSATED EMPLOYEE PERCENTAGE.—

(1) CASH OR DEFERRED ARRANGEMENTS.—Clause (ii) of section 401(k)(3)(A) is amended—

(A) by striking ''such year'' and inserting ''the plan year'', and

(B) by striking ''for such plan year'' and inserting ''the preceding plan year''.

(2) MATCHING AND EMPLOYEE CONTRIBUTIONS.—Section 401(m)(2)(A) is amended—

(A) by inserting ''for such plan year'' after ''highly compensated employee'', and

(B) by inserting ''for the preceding plan year'' after ''eligible employees'' each place it appears in clause (i) and clause (ii).

(d) SPECIAL RULE FOR DETERMINING AVERAGE DEFERRAL PERCENTAGE FOR FIRST PLAN YEAR, ETC.—

(1) Paragraph (3) of section 401(k) is amended by adding at the end the following new subparagraph:

''(E) For purposes of this paragraph, in the case of the first plan year of any plan, the amount taken into account as the actual deferral percentage of nonhighly compensated employees for the preceding plan year shall be—

''(i) 3 percent, or

''(ii) if the employer makes an election under this subclause, the actual deferral percentage of nonhighly compensated employees determined for such first plan year.''

(2) Paragraph (3) of section 401(m) is amended by adding at the end thereof the following: ''Rules similar to the rules of subsection (k)(3)(E) shall apply for purposes of this subsection.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1995.

TITLE II—SIMPLIFIED DISTRIBUTION RULES

SEC. 201. REPEAL OF 5-YEAR INCOME AVERAGING FOR LUMP-SUM DISTRIBUTIONS.

(a) IN GENERAL.—Subsection (d) of section 402 (relating to taxability of beneficiary of employees' trust) is amended to read as follows:

''(d) TAXABILITY OF BENEFICIARY OF CERTAIN FOREIGN SITUS TRUSTS.—For purposes of subsections (a), (b), and (c), a stock bonus, pension, or profit-sharing trust which would qualify for exemption from tax under section 501(a) except for the fact that it is a trust created or organized outside the United States shall be treated as if it were a trust exempt from tax under section 501(a).''

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (D) of section 402(e)(4) (relating to other rules applicable to exempt trusts) is amended to read as follows:

''(D) LUMP-SUM DISTRIBUTION.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'lump sum distribution' means the distribution or payment within one taxable year of the recipient of the balance to the credit of an employee which becomes payable to the recipient—

''(I) on account of the employee's death,

''(II) after the employee attains age 59½,

''(III) on account of the employee's separation from service, or

''(IV) after the employee has become disabled (within the meaning of section 72(m)(7)),

from a trust which forms a part of a plan described in section 401(a) and which is exempt from tax under section 501 or from a plan described in section 403(a). Subclause (III) of this clause shall be applied only with respect to an individual who is an employee without regard to section 401(c)(1), and subclause (IV) shall be applied only with respect to an employee within the meaning of section 401(c)(1). For purposes of this clause, a distribution to two or more trusts shall be treated as a distribution to one recipient. For purposes of this paragraph, the balance to the credit of the employee does not include the accumulated deductible employee contributions under the plan (within the meaning of section 72(o)(5)).

''(ii) AGGREGATION OF CERTAIN TRUSTS AND PLANS.—For purposes of determining the balance to the credit of an employee under clause (i)—

''(I) all trusts which are part of a plan shall be treated as a single trust, all pension plans maintained by the employer shall be treated as a single plan, all profit-sharing plans maintained by the employer shall be treated as a single plan, and all stock bonus plans maintained by the employer shall be treated as a single plan, and

''(II) trusts which are not qualified trusts under section 401(a) and annuity contracts which do not satisfy the requirements of section 404(a)(2) shall not be taken into account.

''(iii) COMMUNITY PROPERTY LAWS.—The provisions of this paragraph shall be applied without regard to community property laws.

''(iv) AMOUNTS SUBJECT TO PENALTY.—This paragraph shall not apply to amounts described in subparagraph (A) of section 72(m)(5) to the extent that section 72(m)(5) applies to such amounts.

''(v) BALANCE TO CREDIT OF EMPLOYEE NOT TO INCLUDE AMOUNTS PAYABLE UNDER QUALIFIED DOMESTIC RELATIONS ORDER.—For purposes of this paragraph, the balance to the credit of an employee shall not include any amount payable to an alternate payee under a qualified domestic relations order (within the meaning of section 414(p)).

''(vi) TRANSFERS TO COST-OF-LIVING ARRANGEMENT NOT TREATED AS DISTRIBUTION.—For purposes of this paragraph, the balance to the credit of an employee under a defined contribution plan shall not include any amount transferred from such defined contribution plan to a qualified cost-of-living arrangement (within the meaning of section 415(k)(2)) under a defined benefit plan.

''(vii) LUMP-SUM DISTRIBUTIONS OF ALTERNATE PAYEES.—If any distribution or payment of the balance to the credit of an employee would be treated as a lump-sum distribution, then, for purposes of this paragraph, the payment under a qualified domestic relations order (within the meaning of section 414(p)) of the balance to the credit of an alternate payee who is the spouse or former spouse of the employee shall be treated as a lump-sum distribution. For purposes of this clause, the balance to the credit of the alternate payee shall not include any amount payable to the employee.''

(2) Section 402(c) (relating to rules applicable to rollovers from exempt trusts) is amended by striking paragraph (10).

(3) Paragraph (1) of section 55(c) (defining regular tax) is amended by striking ''shall not include any tax imposed by section 402(d) and''.

(4) Paragraph (8) of section 62(a) (relating to certain portion of lump-sum distributions from pension plans taxed under section 402(d)) is hereby repealed.

(5) Section 401(a)(28)(B) (relating to coordination with distribution rules) is amended by striking clause (v).

(6) Subparagraph (B)(ii) of section 401(k)(10) (relating to distributions that must be lump-sum distributions) is amended to read as follows:

''(ii) LUMP-SUM DISTRIBUTION.—For purposes of this subparagraph, the term 'lump-sum distribution' means any distribution of the balance to the credit of an employee immediately before the distribution.''

(7) Section 406(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is hereby repealed.

(8) Section 407(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is hereby repealed.

(9) Section 691(c) (relating to deduction for estate tax) is amended by striking paragraph (5).

(10) Paragraph (1) of section 871(b) (relating to imposition of tax) is amended by striking ''section 1, 55, or 402(d)(1)'' and inserting ''section 1 or 55''.

(11) Subsection (b) of section 877 (relating to alternative tax) is amended by striking ''section 1, 55, or 402(d)(1)'' and inserting ''section 1 or 55''.

(12) Section 4980A(c)(4) is amended—

(A) by striking ''to which an election under section 402(d)(4)(B) applies'' and inserting ''(as defined in section 402(e)(4)(D)) with respect to which the individual elects to have this paragraph apply'',

(B) by adding at the end the following new flush sentence:

''An individual may elect to have this paragraph apply to only one lump-sum distribution.'', and

(C) by striking the heading and inserting:

''(4) SPECIAL ONE-TIME ELECTION.—''.

(13) Section 402(e) is amended by striking paragraph (5).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(2) RETENTION OF CERTAIN TRANSITION RULES.—Notwithstanding any other provision of this section, the amendments made by this section shall not apply to any distribution for which the taxpayer elects the benefits of section 1122 (h)(3) or (h)(5) of the Tax Reform Act of 1986. For purposes of the preceding sentence, the rules of sections 402(c)(10) and 402(d) of the Internal Revenue Code of 1986 (as in effect before the amendments made by this Act) shall apply.

SEC. 202. REPEAL OF $5,000 EXCLUSION OF EMPLOYEES' DEATH BENEFITS.

(a) IN GENERAL.—Subsection (b) of section 101 is hereby repealed.

(b) CONFORMING AMENDMENT.—Subsection (c) of section 101 is amended by striking ''subsection (a) or (b)'' and inserting ''subsection (a)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 203. SIMPLIFIED METHOD FOR TAXING ANNUITY DISTRIBUTIONS UNDER CERTAIN EMPLOYER PLANS.

(a) GENERAL RULE.—Subsection (d) of section 72 (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended to read as follows:

''(d) SPECIAL RULES FOR QUALIFIED EMPLOYER RETIREMENT PLANS.—

''(1) SIMPLIFIED METHOD OF TAXING ANNUITY PAYMENTS.—

''(A) IN GENERAL.—In the case of any amount received as an annuity under a qualified employer retirement plan—

''(i) subsection (b) shall not apply, and

''(ii) the investment in the contract shall be recovered as provided in this paragraph.

''(B) METHOD OF RECOVERING INVESTMENT IN CONTRACT.—

''(i) IN GENERAL.—Gross income shall not include so much of any monthly annuity payment under a qualified employer retirement plan as does not exceed the amount obtained by dividing—

''(I) the investment in the contract (as of the annuity starting date), by

''(II) the number of anticipated payments determined under the table contained in clause (iii) (or, in the case of a contract to which subsection (c)(3)(B) applies, the number of monthly annuity payments under such contract).

''(ii) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2) and (3) of subsection (b) shall apply for purposes of this paragraph.

''(iii) NUMBER OF ANTICIPATED PAYMENTS.—

''If the age of the primary annuitant on the annuity starting date is:	The number of anticipated payments is:
Not more than 55	300
More than 55 but not more than 60	260
More than 60 but not more than 65	240
More than 65 but not more than 70	170
More than 70	120

''(C) ADJUSTMENT FOR REFUND FEATURE NOT APPLICABLE.—For purposes of this paragraph, investment in the contract shall be determined under subsection (c)(1) without regard to subsection (c)(2).

''(D) SPECIAL RULE WHERE LUMP SUM PAID IN CONNECTION WITH COMMENCEMENT OF ANNUITY PAYMENTS.—If, in connection with the commencement of annuity payments under any qualified employer retirement plan, the taxpayer receives a lump sum payment—

''(i) such payment shall be taxable under subsection (e) as if received before the annuity starting date, and

''(ii) the investment in the contract for purposes of this paragraph shall be determined as if such payment had been so received.

''(E) EXCEPTION.—This paragraph shall not apply in any case where the primary annuitant has attained age 75 on the annuity starting date unless there are fewer than 5 years of guaranteed payments under the annuity.

''(F) ADJUSTMENT WHERE ANNUITY PAYMENTS NOT ON MONTHLY BASIS.—In any case where the annuity payments are not made on a monthly basis, appropriate adjustments in the application of this paragraph shall be made to take into account the period on the basis of which such payments are made.

''(G) QUALIFIED EMPLOYER RETIREMENT PLAN.—For purposes of this paragraph, the term 'qualified employer retirement plan' means any plan or contract described in paragraph (1), (2), or (3) of section 4974(c).

''(2) TREATMENT OF EMPLOYEE CONTRIBUTIONS UNDER DEFINED CONTRIBUTION PLANS.—For purposes of this section, employee contributions (and any income allocable thereto) under a defined contribution plan may be treated as a separate contract.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply in cases where the annuity starting date is after December 31, 1995.

SEC. 204. REQUIRED DISTRIBUTIONS.

(a) IN GENERAL.—Section 401(a)(9)(C) (defining required beginning date) is amended to read as follows:

''(C) REQUIRED BEGINNING DATE.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'required beginning date' means April 1 of the calendar year following the later of—

''(I) the calendar year in which the employee attains age 70½, or

''(II) the calendar year in which the employee retires.

''(ii) EXCEPTION.—Subclause (II) of clause (i) shall not apply—

''(I) except as provided in section 409(d), in the case of an employee who is a 5-percent owner (as defined in section 416) with respect to the plan year ending in the calendar year in which the employee attains age 70½, or

''(II) for purposes of section 408 (a)(6) or (b)(3).

''(iii) ACTUARIAL ADJUSTMENT.—In the case of an employee to whom clause (i)(II) applies who retires in a calendar year after the calendar year in which the employee attains age 70½, the employee's accrued benefit shall be actuarially increased to take into account the period after age 70½ in which the employee was not receiving any benefits under the plan.

''(iv) EXCEPTION FOR GOVERNMENTAL AND CHURCH PLANS.—Clauses (ii) and (iii) shall not apply in the case of a governmental plan or church plan. For purposes of this clause, the term 'church plan' means a plan maintained by a church for church employees, and the term 'church' means any church (as defined in section 3121(w)(3)(A)) or qualified church-controlled organization (as defined in section 3121(w)(3)(B)).''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1995.

TITLE III—TARGETED ACCESS TO PENSION PLANS FOR SMALL EMPLOYERS

SEC. 301. CREDIT FOR PENSION PLAN START-UP COSTS OF SMALL EMPLOYERS.

(a) ALLOWANCE OF CREDIT.—Section 38(b) (defining current year business credit) is amended by striking ''plus'' at the end of paragraph (10), by striking the period at the end of paragraph (11) and inserting '', plus'', and by adding at the end the following new paragraph:

''(12) the small employer pension plan start-up cost credit.''

(b) SMALL EMPLOYER PENSION PLAN START-UP COST CREDIT.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

''SEC. 45C. SMALL EMPLOYER PENSION PLAN START-UP COST CREDIT.

''(a) AMOUNT OF CREDIT.—For purposes of section 38—

''(1) IN GENERAL.—The small employer pension plan start-up cost credit for any taxable year is an amount equal to the qualified start-up costs of an eligible employer in establishing a qualified pension plan.

''(2) AGGREGATE LIMITATION.—The amount of the credit under paragraph (1) for any taxable year shall not exceed $1,000, reduced by the aggregate amount determined under this section for all preceding taxable years of the taxpayer.

''(b) QUALIFIED START-UP COSTS; QUALIFIED PENSION PLAN.—For purposes of this section—

''(1) QUALIFIED START-UP COSTS.—The term 'qualified start-up costs' means any ordinary and necessary expenses of an eligible employer which—

''(A) are paid or incurred in connection with the establishment of a qualified pension plan, and

''(B) are of a nonrecurring nature.

''(2) QUALIFIED PENSION PLAN.—The term 'qualified pension plan' means—

''(A) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a), or

''(B) a simplified employee pension (as defined in section 408(k)).

''(c) ELIGIBLE EMPLOYER.—For purposes of this section—

''(1) IN GENERAL.—The term 'eligible employer' means an employer which—

''(A) had an average daily number of employees during the preceding taxable year not in excess of 50, and

''(B) did not make any contributions on behalf of any employee to a qualified pension plan during the 2 taxable years immediately preceding the taxable year.

''(2) PROFESSIONAL SERVICE EMPLOYERS EXCLUDED.—Such term shall not include an employer substantially all of the activities of

which involve the performance of services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, or consulting.

''(d) SPECIAL RULES.—For purposes of this section—

''(1) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (n) or (o) of section 414 shall be treated as one person.

''(2) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowable under this chapter for any qualified start-up costs for which a credit is allowable under subsection (a).''

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d) is amended by adding at the end the following new paragraph:

''(7) NO CARRYBACK OF PENSION CREDIT.—No portion of the unused business credit for any taxable year which is attributable to the small employer pension plan start-up cost credit determined under section 45C may be carried back to a taxable year ending before the date of the enactment of section 45C.''

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 45C. Small employer pension plan start-up cost credit.''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to costs incurred after the date of the enactment of this Act in taxable years ending after such date.

SEC. 302. MODIFICATIONS OF SIMPLIFIED EMPLOYEE PENSIONS.

(a) INCREASE IN NUMBER OF ALLOWABLE PARTICIPANTS FOR SALARY REDUCTION ARRANGEMENTS.—Section 408(k)(6)(B) is amended by striking ''25'' each place it appears in the text and heading thereof and inserting ''100''.

(b) REPEAL OF PARTICIPATION REQUIREMENT.—

(1) IN GENERAL.—Section 408(k)(6)(A) is amended by striking clause (ii) and by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(2) CONFORMING AMENDMENTS.—Clause (ii) of section 408(k)(6)(C) and clause (ii) of section 408(k)(6)(F) are each amended by striking ''subparagraph (A)(iii)'' and inserting ''subparagraph (A)(ii)''.

(c) ALTERNATIVE TEST.—Clause (ii) of section 408(k)(6)(A), as redesignated by subsection (b)(1), is amended by adding at the end the following new flush sentence:

''The requirements of the preceding sentence are met if the employer makes contributions to the simplified employee pension meeting the requirements of sections 401(k)(11) (B) or (C), 401(k)(11)(D), and 401(m)(10)(B).''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1995.

SEC. 303. EXEMPTION FROM TOP-HEAVY PLAN REQUIREMENTS.

(a) EXEMPTION FROM TOP-HEAVY PLAN REQUIREMENTS.—Section 416(g) (defining top-heavy plans) is amended by adding at the end the following new paragraph:

''(3) EXEMPTION FOR CERTAIN PLANS.—A plan shall not be treated as a top-heavy plan if, for such plan year, the employer has no highly compensated employees (as defined in section 414(q)) by reason of section 414(q)(2).''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 1995.

SEC. 304. TAX-EXEMPT ORGANIZATIONS ELIGIBLE UNDER SECTION 401(k).

(a) GENERAL RULE.—Clause (ii) of section 401(k)(4)(B) is amended to read as follows:

''(ii) any organization described in section 501(c)(3) which is exempt from tax under section 501(a).''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan years beginning after December 31, 1995, but shall not apply to any cash or deferred arrangement to which clause (i) of section 1116(f)(2)(B) of the Tax Reform Act of 1986 applies.

SEC. 305. REGULATORY TREATMENT OF SMALL EMPLOYERS.

(a) IN GENERAL.—Section 7805(f) (relating to review of impact of regulations on small business) is amended by adding at the end the following new subparagraph:

''(4) SPECIAL RULE FOR PENSION REGULATIONS.—

''(A) IN GENERAL.—Any regulation proposed to be issued by the Secretary which relates to qualified pension plans shall not take effect unless the Secretary includes provisions to address any special needs of the small employers.

''(B) QUALIFIED PENSION PLAN.—For purposes of this paragraph, the term 'qualified pension plan' means—

''(i) any plan which includes a trust described in section 401(a) which is exempt from tax under section 501(a), or

''(ii) any simplified employee pension (as defined in section 408(k)).''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to regulations issued after the date of the enactment of this Act.

TITLE IV—PAPERWORK REDUCTION

SEC. 401. REPEAL OF COMBINED SECTION 415 LIMIT.

(a) IN GENERAL.—Section 415(e) (relating to limitation in case of defined benefit plan and defined contribution plan for same employee) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 415(b)(5) is amended by striking ''and subsection (e)''.

(2) Section 415(f)(1) is amended by striking '', (c), and (e)'' and inserting ''and (c)''.

(3) Section 415(g) is amended by striking ''subsections (e) and (f)'' and inserting ''subsection (f)''.

(4) Section 415(k)(2)(A) is amended—

(A) by striking clause (i) and inserting:

''(i) any contribution made directly by an employee under such arrangement shall not be treated as an annual addition for purposes of subsection (c), and'', and

(B) by striking ''subsections (c) and (e)'' in clause (ii) and inserting ''subsection (c)''.

(5) Section 416(h) is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1995.

SEC. 402. DUTIES OF SPONSORS OF CERTAIN PROTOTYPE PLANS.

(a) IN GENERAL.—The Secretary of the Treasury may, as a condition of sponsorship, prescribe rules defining the duties and responsibilities of sponsors of master and prototype plans, regional prototype plans, and other Internal Revenue Service preapproved plans.

(b) DUTIES RELATING TO PLAN AMENDMENT, NOTIFICATION OF ADOPTERS, AND PLAN ADMINISTRATION.—The duties and responsibilities referred to in subsection (a) may include—

(1) the maintenance of lists of persons adopting the sponsor's plans, including the updating of such lists not less frequently than annually,

(2) the furnishing of notices at least annually to such persons and to the Secretary or the Secretary's delegate, in such form and at such time as the Secretary shall prescribe,

(3) duties relating to administrative services to such persons in the operation of their plans, and

(4) other duties that the Secretary considers necessary to ensure that—

(A) the master and prototype, regional prototype, and other preapproved plans of adopting employers are timely amended to meet the requirements of the Internal Revenue Code of 1986 or of any rule or regulation of the Secretary, and

(B) adopting employers receive timely notification of amendments and other actions taken by sponsors with respect to their plans.

TITLE V—MISCELLANEOUS SIMPLIFICATION

SEC. 501. TREATMENT OF LEASED EMPLOYEES.

(a) GENERAL RULE.—Subparagraph (C) of section 414(n)(2) (defining leased employee) is amended to read as follows:

''(C) such services are performed under significant direction or control by the recipient.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1995, but shall not apply to any relationship determined under an Internal Revenue Service ruling issued before the date of the enactment of this Act pursuant to section 414(n)(2)(C) of the Internal Revenue Code of 1986 (as in effect on the day before such date) not to involve a leased employee.

SEC. 502. PLANS COVERING SELF-EMPLOYED INDIVIDUALS.

(a) AGGREGATION RULES.—Section 401(d) (relating to additional requirements for qualification of trusts and plans benefiting owner-employees) is amended to read as follows:

''(d) CONTRIBUTION LIMIT ON OWNER-EMPLOYEES.—A trust forming part of a pension or profit-sharing plan which provides contributions or benefits for employees some or all of whom are owner-employees shall constitute a qualified trust under this section only if, in addition to meeting the requirements of subsection (a), the plan provides that contributions on behalf of any owner-employee may be made only with respect to the earned income of such owner-employee which is derived from the trade or business with respect to which such plan is established.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1995.

SEC. 503. ELIMINATION OF SPECIAL VESTING RULE FOR MULTIEMPLOYER PLANS.

(a) IN GENERAL.—Paragraph (2) of section 411(a) (relating to minimum vesting standards) is amended—

(1) by striking ''subparagraph (A), (B), or (C)'' and inserting ''subparagraph (A) or (B)''; and

(2) by striking subparagraph (C).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning on or after the earlier of—

(1) the later of—

(A) January 1, 1996, or

(B) the date on which the last of the collective bargaining agreements pursuant to which the plan is maintained terminates (determined without regard to any extension thereof after the date of the enactment of this Act), or

(2) January 1, 1998.

Such amendments shall not apply to any individual who does not have more than 1 hour of service under the plan on or after the 1st day of the 1st plan year to which such amendments apply.

SEC. 504. FULL-FUNDING LIMITATION OF MULTIEMPLOYER PLANS.

(a) FULL-FUNDING LIMITATION.—Section 412(c)(7)(C) (relating to full-funding limitation) is amended—

(1) by inserting ''or in the case of a multiemployer plan,'' after ''paragraph (6)(B),'', and

(2) by inserting ''AND MULTIEMPLOYER PLANS'' after ''PARAGRAPH (6)(B)'' in the heading thereof.

(b) VALUATION.—Section 412(c)(9) is amended—

(1) by inserting ''(3 years in the case of a multiemployer plan)'' after ''year'', and

(2) by striking ''ANNUAL VALUATION'' in the heading and inserting ''VALUATION''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1995.

SEC. 505. ALTERNATIVE FULL-FUNDING LIMITATION.

(a) IN GENERAL.—Subsection (c) of section 412 (relating to minimum funding standards) is amended by redesignating paragraphs (8) through (12) as paragraphs (9) through (13), respectively, and by adding after paragraph (7) the following new paragraph:

''(8) ALTERNATIVE FULL-FUNDING LIMITATION.—

''(A) GENERAL RULE.—An employer may elect the full-funding limitation under this paragraph with respect to any defined benefit plan of the employer in lieu of the full-funding limitation determined under paragraph (7) if the requirements of subparagraphs (C) and (D) are met.

''(B) ALTERNATIVE FULL-FUNDING LIMITATION.—The full-funding limitation under this paragraph is the full-funding limitation determined under paragraph (7) without regard to subparagraph (A)(i)(I) thereof.

''(C) REQUIREMENTS RELATING TO PLAN ELIGIBILITY.—

''(i) IN GENERAL.—The requirements of this subparagraph are met with respect to a defined benefit plan if—

''(I) as of the 1st day of the election period, the average accrued liability of participants accruing benefits under the plan for the 5 immediately preceding plan years is at least 80 percent of the plan's total accrued liability,

''(II) the plan is not a top-heavy plan (as defined in section 416(g)) for the 1st plan year of the election period or either of the 2 preceding plan years, and

''(III) each defined benefit plan of the employer (and each defined benefit plan of each employer who is a member of any controlled group which includes such employer) meets the requirements of subclauses (I) and (II).

''(ii) FAILURE TO CONTINUE TO MEET REQUIREMENTS.—

''(I) If any plan fails to meet the requirement of clause (i)(I) for any plan year during an election period, the benefits of the election under this paragraph shall be phased out under regulations prescribed by the Secretary.

''(II) If any plan fails to meet the requirement of clause (i)(II) for any plan year during an election period, such plan shall be treated as not meeting the requirements of clause (i) for the remainder of the election period.

If there is a failure described in subclause (I) or (II) with respect to any plan, such plan (and each plan described in clause (i)(III) with respect to such plan) shall be treated as not meeting the requirements of clause (i) for any of the 10 plan years beginning after the election period.

''(D) REQUIREMENTS RELATING TO ELECTION.—The requirements of this subparagraph are met with respect to an election if—

''(i) FILING DATE.—Notice of such election is filed with the Secretary (in such form and manner and containing such information as the Secretary may provide) by January 1 of any calendar year, and is effective as of the 1st day of the election period beginning on or after January 1 of the following calendar year.

''(ii) CONSISTENT ELECTION.—Such an election is made for all defined benefit plans maintained by the employer or by any member of a controlled group which includes the employer.

''(E) TERM OF ELECTION.—Any election made under this paragraph shall apply for the election period.

''(F) OTHER CONSEQUENCES OF ELECTION.—

''(i) NO FUNDING WAIVERS.—In the case of a plan with respect to which an election is made under this paragraph, no waiver may be granted under subsection (d) for any plan year beginning after the date the election was made and ending at the close of the election period with respect thereto.

''(ii) FAILURE TO MAKE SUCCESSIVE ELECTIONS.—If an election is made under this paragraph with respect to any plan and such an election does not apply for each successive plan year of such plan, such plan shall be treated as not meeting the requirements of subparagraph (C) for the period of 10 plan years beginning after the close of the last election period for such plan.

''(G) DEFINITIONS.—For purposes of this paragraph—

''(i) ELECTION PERIOD.—The term 'election period' means the period of 5 consecutive plan years beginning with the 1st plan year for which the election is made.

''(ii) CONTROLLED GROUP.—The term 'controlled group' means all persons who are treated as a single employer under subsection (b), (c), (m), or (o) of section 414.''

(b) ALTERATION OF DISCRETIONARY REGULATORY AUTHORITY.—Subparagraph (D) of section 412(c)(7) is amended by striking ''provide—'' and all that follows through ''(iii) for'' and inserting ''provide for''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall take effect on January 1, 1997.

(2) TRANSITION PERIOD.—In the case of a plan with respect to which a transition period election is made under section 412(c)(8)(D)(ii) of the Internal Revenue Code of 1986 (as added by this section), the amendments made by this section shall take effect on July 1, 1996.

SEC. 506. AFFILIATED EMPLOYERS.

(a) IN GENERAL.—For purposes of Treasury Regulations section 1.501(c)(9)–2(a)(1), a group of employers shall be deemed to be affiliated if they are substantially all section 501(c)(12) organizations which perform services (or with respect to which their members perform services) which are the same or are directly related to each other.

(b) SECTION 501(c)(12) ORGANIZATION.—For purposes of this section, the term ''section 501(c)(12) organization'' means—

(1) any organization described in section 501(c)(12) of the Internal Revenue Code of 1986,

(2) any organization providing a service which is the same as a service which is (or could be) provided by an organization described in paragraph (1),

(3) any organization described in paragraph (4) or (6) of section 501(c) of such Code, but only if at least 80 percent of the members of the organization are organizations described in paragraph (1) or (2), and

(4) any organization which is a national association of organizations described in paragraph (1), (2), or (3).

An organization described in paragraph (2) (but not in paragraph (1)) shall not be treated as a section 501(c)(12) organization with respect to a voluntary employees' beneficiary association unless a substantial number of employers maintaining such association are described in paragraph (1).

(c) EFFECTIVE DATE.—The provisions of this section shall apply to years beginning after December 31, 1995.

SEC. 507. TREATMENT OF GOVERNMENTAL PLANS UNDER SECTION 415.

(a) COMPENSATION LIMIT.—Subsection (b) of section 415 is amended by adding immediately after paragraph (10) the following new paragraph:

''(11) SPECIAL LIMITATION RULE FOR GOVERNMENTAL PLANS.—In the case of a governmental plan (as defined in section 414(d)), subparagraph (B) of paragraph (1) shall not apply.''

(b) TREATMENT OF CERTAIN EXCESS BENEFIT PLANS.—

(1) IN GENERAL.—Section 415 is amended by adding at the end the following new subsection:

''(m) TREATMENT OF QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENTS.—

''(1) GOVERNMENTAL PLAN NOT AFFECTED.—In determining whether a governmental plan (as defined in section 414(d)) meets the requirements of this section, benefits provided under a qualified governmental excess benefit arrangement shall not be taken into account. Income accruing to a governmental plan (or to a trust that is maintained solely for the purpose of providing benefits under a qualified governmental excess benefit arrangement) in respect of a qualified governmental excess benefit arrangement shall constitute income derived from the exercise of an essential governmental function upon which such governmental plan (or trust) shall be exempt from tax under section 115.

''(2) TAXATION OF PARTICIPANT.—For purposes of this chapter—

''(A) the taxable year or years for which amounts in respect of a qualified governmental excess benefit arrangement are includible in gross income by a participant, and

''(B) the treatment of such amounts when so includible by the participant,

shall be determined as if such qualified governmental excess benefit arrangement were treated as a plan for the deferral of compensation which is maintained by a corporation not exempt from tax under this chapter and which does not meet the requirements for qualification under section 401.

''(3) QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENT.—For purposes of this subsection, the term 'qualified governmental excess benefit arrangement' means a portion of a governmental plan if—

''(A) such portion is maintained solely for the purpose of providing to participants in the plan that part of the participant's annual benefit otherwise payable under the terms of the plan that exceeds the limitations on benefits imposed by this section,

''(B) under such portion no election is provided at any time to the participant (directly or indirectly) to defer compensation, and

''(C) benefits described in subparagraph (A) are not paid from a trust forming a part of such governmental plan unless such trust is maintained solely for the purpose of providing such benefits.''

(2) COORDINATION WITH SECTION 457.—Subsection (e) of section 457 is amended by adding at the end the following new paragraph:

''(14) TREATMENT OF QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENTS.—Subsections (b)(2) and (c)(1) shall not apply to any qualified governmental excess benefit arrangement (as defined in section 415(m)(3)), and benefits provided under such an arrangement shall not be taken into account in determining whether any other plan is an eligible deferred compensation plan.''

(3) CONFORMING AMENDMENT.—Paragraph (2) of section 457(f) is amended by striking the word ''and'' at the end of subparagraph (C), by striking the period after subparagraph (D) and inserting '', and'', and by adding at the end the following new subparagraph:

''(E) a qualified governmental excess benefit arrangement described in section 415(m).''

(c) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS.—Paragraph (2) of section 415(b) is amended by adding at the end the following new subparagraph:

''(I) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS PROVIDED UNDER GOVERNMENTAL PLANS.—Subparagraph (B) of paragraph (1), subparagraph (C) of this paragraph, and paragraph (5) shall not apply to—

''(i) income received from a governmental plan (as defined in section 414(d)) as a pension, annuity, or similar allowance as the result of the recipient becoming disabled by reason of personal injuries or sickness, or

''(ii) amounts received from a governmental plan by the beneficiaries, survivors, or the estate of an employee as the result of the death of the employee.''

(d) REVOCATION OF GRANDFATHER ELECTION.—

(1) IN GENERAL.—Subparagraph (C) of section 415(b)(10) is amended by adding at the end the following new clause:

''(ii) REVOCATION OF ELECTION.—An election under clause (i) may be revoked not later than the last day of the third plan year beginning after the date of the enactment of this clause. The revocation shall apply to all plan years to which the election applied and to all subsequent plan years. Any amount paid by a plan in a taxable year ending after the revocation shall be includible in income in such taxable year under the rules of this chapter in effect for such taxable year, except that, for purposes of applying the limitations imposed by this section, any portion of such amount which is attributable to any taxable year during which the election was in effect shall be treated as received in such taxable year.''

(2) CONFORMING AMENDMENT.—Subparagraph (C) of section 415(b)(10) is amended by striking ''This'' and inserting:

''(i) IN GENERAL.—This''.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), (c), and (d) shall apply to taxable years beginning on or after the date of the enactment of this Act. The amendments made by subsection (e) shall apply with respect to revocations adopted after the date of the enactment of this Act.

(2) TREATMENT FOR YEARS BEGINNING BEFORE DATE OF ENACTMENT.—A governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) shall be treated as satisfying the requirements of section 415 of such Code for all taxable years beginning before the date of the enactment of this Act.

SEC. 508. TREATMENT OF DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS.

(a) SPECIAL RULES FOR PLAN DISTRIBUTIONS.—Paragraph (9) of section 457(e) (relating to other definitions and special rules) is amended to read as follows:

''(9) BENEFITS NOT TREATED AS MADE AVAILABLE BY REASON OF CERTAIN ELECTIONS, ETC.—

''(A) TOTAL AMOUNT PAYABLE IS $3,500 OR LESS.—The total amount payable to a participant under the plan shall not be treated as made available merely because the participant may elect to receive such amount (or the plan may distribute such amount without the participant's consent) if—

''(i) such amount does not exceed $3,500, and

''(ii) such amount may be distributed only if—

''(I) no amount has been deferred under the plan with respect to such participant during the 2-year period ending on the date of the distribution, and

''(II) there has been no prior distribution under the plan to such participant to which this subparagraph applied.

A plan shall not be treated as failing to meet the distribution requirements of subsection (d) by reason of a distribution to which this subparagraph applies.

''(B) ELECTION TO DEFER COMMENCEMENT OF DISTRIBUTIONS.—The total amount payable to a participant under the plan shall not be treated as made available merely because the participant may elect to defer commencement of distributions under the plan if—

''(i) such election is made after amounts may be available under the plan in accordance with subsection (d)(1)(A) and before commencement of such distributions, and

''(ii) the participant may make only 1 such election.''

(b) COST-OF-LIVING ADJUSTMENT OF MAXIMUM DEFERRAL AMOUNT.—Subsection (e) of section 457, as amended by section 507(c)(2), is amended by adding at the end the following new paragraph:

''(15) COST-OF-LIVING ADJUSTMENT OF MAXIMUM DEFERRAL AMOUNT.—The Secretary shall adjust the $7,500 amount specified in subsections (b)(2) and (c)(1) at the same time and in the same manner as under section 415(d), except that the base period shall be the calendar quarter beginning October 1, 1994.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 509. CONTRIBUTIONS ON BEHALF OF DISABLED EMPLOYEES.

(a) ALL DISABLED PARTICIPANTS RECEIVING CONTRIBUTIONS.—Section 415(c)(3)(C) is amended by adding at the end the following: ''If a defined contribution plan provides for the continuation of contributions on behalf of all participants described in clause (i) for a fixed or determinable period, this subparagraph shall be applied without regard to clauses (ii) and (iii).''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1995.

SEC. 510. DISTRIBUTIONS UNDER RURAL COOPERATIVE PLANS.

(a) DISTRIBUTIONS FOR HARDSHIP OR AFTER A CERTAIN AGE.—Section 401(k)(7) is amended by adding at the end the following new subparagraph:

''(C) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS.—A rural cooperative plan which includes a qualified cash or deferred arrangement shall not be treated as violating the requirements of section 401(a) or of paragraph (2) merely by reason of a hardship distribution or a distribution to a participant after attainment of age 59½. For purposes of this section, the term 'hardship distribution' means a distribution described in paragraph (2)(B)(i)(IV) (without regard to the limit of its application to profit-sharing or stock bonus plans).''

(b) DEFINITION OF RURAL COOPERATIVE PLANS.—

(1) PUBLIC UTILITY DISTRICTS.—Clause (i) of section 401(k)(7)(B) (defining rural cooperative) is amended to read as follows:

''(i) any organization which—

''(I) is engaged primarily in providing electric service on a mutual or cooperative basis, or

''(II) is engaged primarily in providing electric service to the public in its area of service and which is exempt from tax under this subtitle or which is a State or local government (or an agency or instrumentality thereof), other than a municipality (or an agency or instrumentality thereof).''

(2) RELATED ORGANIZATIONS.—Subparagraph (B) of section 401(k)(7), as amended by paragraph (1), is amended by striking clause (iv) and inserting the following new clauses:

''(iv) an organization which is a national association of organizations described in any other clause of this subparagraph, or

''(v) any other organization which provides services which are related to the activities or operations of an organization described in clause (i), (ii), (iii), or (iv), but only in the case of a plan with respect to which substantially all of the organizations maintaining it are described in clause (i), (ii), (iii), or (iv).''

(c) EFFECTIVE DATES.—

(1) DISTRIBUTIONS.—The amendments made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

(2) RURAL COOPERATIVE.—The amendments made by subsection (b) shall apply to plan years beginning after December 31, 1984.

SEC. 511. SPECIAL RULES FOR PLANS COVERING PILOTS.

(a) GENERAL RULE.—

(1) Subparagraph (B) of section 410(b)(3) is amended to read as follows:

''(B) in the case of a plan established or maintained by one or more employers to provide contributions or benefits for air pilots employed by one or more common carriers engaged in interstate or foreign commerce or air pilots employed by carriers transporting mail for or under contract with the United States Government, all employees who are not air pilots.''

(2) Paragraph (3) of section 410(b) is amended by striking the last sentence and inserting the following new sentence: ''Subparagraph (B) shall not apply in the case of a plan which provides contributions or benefits for employees who are not air pilots or for air pilots whose principal duties are not customarily performed aboard aircraft in flight.''

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to years beginning after December 31, 1995.

SEC. 512. TENURED FACULTY.

(a) IN GENERAL.—Section 457(e)(11) is amended by inserting ''eligible faculty voluntary retirement incentive pay,'' after ''disability pay,''.

(b) DEFINITION.—Section 457(e), as amended by sections 507(c)(2) and 508(b), is amended by adding at the end the following new paragraph:

''(16) DEFINITION OF ELIGIBLE FACULTY VOLUNTARY RETIREMENT INCENTIVE PAY.—For purposes of this section, the term 'eligible faculty voluntary retirement incentive pay' means payments under a plan established for employees serving under contracts of unlimited tenure (or similar arrangements providing for unlimited tenure) at an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) which—

''(A) provides—

''(i) payment to employees electing to retire during a specified period of time of limited duration, or

''(ii) payment to employees who elect to retire prior to normal retirement age,

''(B) provides that the total amount of payments to an employee does not exceed the equivalent of twice the employee's annual compensation (within the meaning of section 415(c)(3)) during the year immediately preceding the employee's termination of service, and

''(C) provides that all payments to an employee must be completed within 5 years after the employee's termination of service.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1995.

SEC. 513. UNIFORM RETIREMENT AGE.

(a) DISCRIMINATION TESTING.—Paragraph (5) of section 401(a) (relating to special rules relating to nondiscrimination requirements) is amended by adding at the end the following new subparagraph:

''(F) SOCIAL SECURITY RETIREMENT AGE.—For purposes of testing for discrimination under paragraph (4)—

''(i) the social security retirement age (as defined in section 415(b)(8)) shall be treated as a uniform retirement age, and

''(ii) subsidized early retirement benefits and joint and survivor annuities shall not be treated as being unavailable to employees on the same terms merely because such benefits or annuities are based in whole or in part on an employee's social security retirement age (as so defined).''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1995.

SEC. 514. UNIFORM PENALTY PROVISIONS TO APPLY TO CERTAIN PENSION REPORTING REQUIREMENTS.

(a) IN GENERAL.—

(1) Paragraph (1) of section 6724(d) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by inserting after subparagraph (B) the following new subparagraph:

''(C) any statement of the amount of payments to another person required to be made to the Secretary under—

''(i) section 408(i) (relating to reports with respect to individual retirement accounts or annuities), or

''(ii) section 6047(d) (relating to reports by employers, plan administrators, etc.).''

(2) Paragraph (2) of section 6724(d) is amended by striking ''or'' at the end of subparagraph (S), by striking the period at the end of subparagraph (T) and inserting a comma, and by inserting after subparagraph (T) the following new subparagraphs:

''(U) section 408(i) (relating to reports with respect to individual retirement plans) to any person other than the Secretary with respect to the amount of payments made to such person, or

''(V) section 6047(d) (relating to reports by plan administrators) to any person other than the Secretary with respect to the amount of payments made to such person.''

(b) MODIFICATION OF REPORTABLE DESIGNATED DISTRIBUTIONS.—

(1) SECTION 408.—Subsection (i) of section 408 (relating to individual retirement account reports) is amended by inserting ''aggregating $10 or more in any calendar year'' after ''distributions''.

(2) SECTION 6047.—Paragraph (1) of section 6047(d) (relating to reports by employers, plan administrators, etc.) is amended by adding at the end thereof the following new sentence: ''No return or report may be required under the preceding sentence with respect to distributions to any person during any year unless such distributions aggregate $10 or more.''

(c) QUALIFYING ROLLOVER DISTRIBUTIONS.—Section 6652(i) is amended—

(1) by striking ''the $10'' and inserting ''$100'', and

(2) by striking ''$5,000'' and inserting ''$50,000''.

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 6047(f) is amended to read as follows:

''(1) For provisions relating to penalties for failures to file returns and reports required under this section, see sections 6652(e), 6721, and 6722.''

(2) Subsection (e) of section 6652 is amended by adding at the end the following new sentence: ''This subsection shall not apply to any return or statement which is an information return described in section 6724(d)(1)(C)(ii) or a payee statement described in section 6724(d)(2)(V).''

(3) Subsection (a) of section 6693 is amended by adding at the end the following new sentence: ''This subsection shall not apply to any report which is an information return described in section 6724(d)(1)(C)(i) or a payee statement described in section 6724(d)(2)(U).''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to returns, reports, and other statements the due date for which (determined without regard to extensions) is after December 31, 1995.

SEC. 515. NATIONAL COMMISSION ON PRIVATE PENSION PLANS.

(a) IN GENERAL.—Chapter 77 is amended by adding at the end the following new section:

''SEC. 7524. NATIONAL COMMISSION ON PRIVATE PENSION PLANS.

''(a) ESTABLISHMENT.—There is hereby established a commission to be known as the National Commission on Private Pension Plans (in this section referred to as the 'Commission').

''(b) MEMBERSHIP.—

''(1) The Commission shall consist of—

''(A) 6 members to be appointed by the President;

''(B) 6 members to be appointed by the Speaker of the House of Representatives; and

''(C) 6 members to be appointed by the Majority Leader of the Senate.

''(2) The appointments made pursuant to subparagraphs (B) and (C) of paragraph (1) shall be made in consultation with the chairmen of the committees of the House of Representatives and the Senate, respectively, having jurisdiction over relevant Federal pension programs.

''(c) DUTIES AND FUNCTIONS OF COMMISSION; PUBLIC HEARINGS IN DIFFERENT GEOGRAPHICAL AREAS; BROAD SPECTRUM OF WITNESSES AND TESTIMONY.—

''(1) It shall be the duty and function of the Commission to conduct the studies and issue the report required by subsection (d).

''(2) The Commission (and any committees that it may form) may conduct public hearings in order to receive the views of a broad spectrum of the public on the status of the Nation's private retirement system.

''(d) REPORT TO THE PRESIDENT AND CONGRESS; RECOMMENDATIONS.—The Commission shall submit to the President, to the Majority Leader and the Minority Leader of the Senate, and to the Majority Leader and the Minority Leader of the House of Representatives a report no later than September 1, 1996, reviewing existing Federal incentives and programs that encourage and protect private retirement savings. The final report shall also set forth recommendations where appropriate for increasing the level and security of private retirement savings.

''(e) TIME OF APPOINTMENT OF MEMBERS; VACANCIES; ELECTION OF CHAIRMAN; QUORUM; CALLING OF MEETINGS; NUMBER OF MEETINGS; VOTING; COMPENSATION AND EXPENSES.—

''(1)(A) Members of the Commission shall be appointed for terms ending on September 1, 1996.

''(B) A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the vacant position was first filled.

''(2) The Commission shall elect 1 of its members to serve as Chairman of the Commission.

''(3) A majority of the members of the Commission shall constitute a quorum for the transaction of business.

''(4) The Commission shall meet at the call of the Chairman.

''(5) Decisions of the Commission shall be according to the vote of a simple majority of those present and voting at a properly called meeting.

''(6) Members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Commission.

''(f) EXECUTIVE DIRECTOR AND ADDITIONAL PERSONNEL; APPOINTMENT AND COMPENSATION; CONSULTANTS.—

''(1) The Commission shall appoint an Executive Director of the Commission. In addition to the Executive Director, the Commission may appoint and fix the compensation of such personnel as it deems advisable. Such appointments and compensation may be made without regard to the provisions of title 5, United States Code, that govern appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title that relate to classifications and the General Schedule pay rates.

''(2) The Commission may procure such temporary and intermittent services of consultants under section 3109(b) of title 5, United States Code, as the Commission determines to be necessary to carry out the duties of the Commission.

''(g) TIME AND PLACE OF HEARINGS AND NATURE OF TESTIMONY AUTHORIZED.—In carrying out its duties, the Commission, or any duly organized committee thereof, is authorized to hold such hearings, sit and act at such times and places, and take such testimony, with respect to matters for which it has a responsibility under this section, as the Commission or committee may deem advisable.

''(h) DATA AND INFORMATION FROM OTHER AGENCIES AND DEPARTMENTS.—

''(1) The Commission may secure directly from any department or agency of the United States such data and information as may be necessary to carry out its responsibilities.

''(2) Upon request of the Commission, any such department or agency shall furnish any such data or information.

''(i) SUPPORT SERVICES BY GENERAL SERVICES ADMINISTRATION.—The General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

''(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 1995 and 1996, such sums as may be necessary to carry out this section.

''(k) DONATIONS ACCEPTED AND DEPOSITED IN TREASURY IN SEPARATE FUND; EXPENDITURES.—

''(1) The Commission is authorized to accept donations of money, property, or personal services. Funds received from donations shall be deposited in the Treasury in a separate fund created for this purpose. Funds appropriated for the Commission and donated funds may be expended for such purposes as official reception and representation expenses, public surveys, public service announcements, preparation of special papers, analyses, and documentaries, and for such other purposes as determined by the Commission to be in furtherance of its mission to review national issues affecting private pension plans.

''(2) Expenditures of appropriated and donated funds shall be subject to such rules and regulations as may be adopted by the Commission and shall not be subject to Federal procurement requirements.

''(l) PUBLIC SURVEYS.—The Commission is authorized to conduct such public surveys as it deems necessary in support of its review of national issues affecting private pension plans and, in conducting such surveys, the Commission shall not be deemed to be an ''agency'' for the purpose of section 3502 of title 44, United States Code.''

(b) CONFORMING AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new item:

''Sec. 7524. National Commission on Private Pension Plans.''

SEC. 516. DATE FOR ADOPTION OF PLAN AMENDMENTS.

If any amendment made by this Act requires an amendment to any plan, such plan amendment shall not be required to be made before the first day of the first plan year beginning on or after January 1, 1997, if—

(1) during the period after such amendment takes effect and before such first plan year, the plan is operated in accordance with the requirements of such amendment, and

(2) such plan amendment applies retroactively to such period.

In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), this section shall be applied by substituting ''1999'' for ''1997''.

PENSION SIMPLIFICATION ACT OF 1995

The Pension Simplification Act will provide greater access to our private pension system by reducing the costs of providing pension benefits. The Act achieves this result by eliminating many of the unnecessary complexities in the Tax Code. While the Act affects both large and small employers, special provisions target small business where sponsorship of a plan by an employer, and employee participation, is historically very low.

1. Simplification of the Definition of ''Highly Compensated Employee''. Current law requires an employer to identify HCEs using a 7-part test in order to ensure that HCEs do not disproportionately benefit under the plan. The bill proposes a simpler 3-part test to achieve this goal. Under the proposal, an employee is an HCE if the employee (1) was a 5-percent owner at any time during the year or preceding year, (2) has compensation for the preceding year in excess of $80,000 (indexed), or (3) was the highest-paid officer during the year (see #10 below which provides an exception to this rule for certain small businesses).

2. Repeal of the Family Aggregation Rules. The family aggregation rules greatly complicate the application of the nondiscrimination tests, particularly for family-owned or operated businesses, and may unfairly reduce retirement benefits for the family members who are not HCEs. The bill eliminates the rule that requires certain HCEs and their family members to be treated as a single employee.

3. Simplify the Definition of ''Compensation'' under Section 415. The general limit on a participant's annual contributions is based on that individuals's taxable compensation. The result is that pre-tax employee contributions (e.g., to cafeteria plans) reduce the participant's taxable compensation, and in turn, their section 415 contribution limit. This rule makes it difficult to communicate in advance the section 415 limit and it leads to many inadvertent violations. Under the bill, pre-tax employee contributions would be counted as compensation under section 415.

4. Exempt Defined Contribution Plans from the Minimum Participation Rule. Every qualified plan currently must cover at least 50 employee or, in smaller companies, 40% of all employees of the employer. This rule is intended to prevent the use of individual defined benefit plans to give high paid employees better benefits than those provided to others under a separate plan. Because the abuses addressed by the rule are unlikely to arise in the context of defined contribution plans, the rule adds unnecessary administrative burden and complexity for defined contribution plans; therefore, the bill repeals the rule for these plans.

5. Section 401(k) Safe Harbor. Current law requires complicated, annual comparisons between the level of contributions to 401(k) plans made by HCEs and non-highly compensated employees. First, the Act will eliminate end-of-year adjustments caused by employee population changes during the year by providing a rule that the maximum contribution for HCEs is determined by reference to NHCEs for the preceding, rather than the current year. Second, the bill provides two 401(k) plan designs which if offered by the employer, will qualify the employer for a special safe harbor, thus eliminating the need to do several annual, complex discrimination tests that apply to traditional plans.

6. Simplify Taxation of Annuity Distributions. A simplified method for determining the nontaxable portion of an annuity payment, similar to the current simplified alternative, would become the required method. Taxpayers would no longer be compelled to do calculations under multiple methods in order to determine the most advantageous approach. Under the simplified method, the portion of an annuity payment that would be nontaxable is generally equal to the employees's total after-tax contributions, divided by the number of anticipated payments listed in a table (based on the employee's age as of the annuity starting date).

7. Repeal Rule Requiring Employer Plans to Commence Minimum Distributions before Retirement. The Act repeals the current law rule requiring distribution of benefits after a participant reaches age 70½, even if he or she does not retire. However, the current law rule will continue to apply to 5% owners.

8. Eliminate the Section 415(e) Combined Plan Limit. Section 415(e) applies an overall limit on benefits and contributions with respect to an individual who participates in both a defined contribution plan and defined benefit plan maintained by the same employer. These rules are extremely complicated, and very burdensome to administer because they require maintaining compensation and contribution records for *all* employees for *all* years of service. Further, the test is duplicative in that there are other provisions in the Code which safeguard against an individual accruing excessive retirement benefits on a tax-favored basis.

9. Repeal 5-year Income Averaging for Lump-Sum Distributions. The bill repeals the special rule that allows a plan participant to calculate the current year tax on a lump-sum pension distribution as if the amount were received over a 5-year period. This special rule, designed to prevent unfair ''bunching'' of income, is no longer needed because of liberalized rollover rules enacted in 1992 (originally part of the Pension Simplification Act) which allow for partial distributions from a plan.

10. Targeting Small Business. Retirement plan coverage among employees of small employers is dismally low. The cost of establishing a retirement plan is, in a significant way, disproportionately high for small employers. The following provisions will help to alleviate these barriers:

Tax Credit for Start-Up Costs. Employers with less than 50 employees that have not maintained a qualified retirement plan at any time during the immediately preceding two years, would be eligible for an income tax credit (up to $1000) equal to the cost of establishing a qualified plan.

Elimination of the One-High-Paid Officer Rule. The highest paid officer of an employer is considered an HCE under current law. This rule is unfair for small employers with low-wage workforces. For example, the highest paid officer of a small employer may earn an amount less than $66,000 yet that employee must be treated as highly compensated. The result is that the nondiscrimination rules severely limit his or her benefits. Thus many small employers decide not to offer plans. The bill provides that no owners or employees would be treated as highly compensated unless they received compensation in excess of $80,000.

Salary Reduction Simplified Employee Pensions (SEPs). The Act adds the two design-based safe harbors, discussed in #5 above, as methods of satisfying the nondiscrimination requirements for SEPs. Further, the Act provides that SEPs may be established by employers with 100 or fewer employees, instead of current law (25 or fewer employees), and the Act repeals the requirement that at least half of eligible employees actually participate in a salary reduction SEP.

Exemption from Top Heavy Plan Requirements. Under the Act, if no employee makes over $80,000 (indexed) in the preceding year, the top heavy plan requirements do not apply for that year.

11. Permit Tax Exempt Organizations to Maintain 401(k) Plans. Except for certain plans established before July 2, 1986, an organization exempt from income tax is not allowed to maintain a 401(k) plan. This rule prevents many tax-exempt organizations from offering their employees retirement benefits on a salary reduction basis. The bill provides that tax exempt organizations (except section 501(c)(3)s which may currently provide 403(b) plans) may provide 401(k) plans to their employees.

12. Leased Employees. Generally, the bill defines an employee as a ''leased employee'' of a service recipient only if the services are performed by the individual under the control of the recipient. This simplified ''control test'' replaces the complicated, 4-part ''historically performed test.''

13. Vesting for Multi-Employer Plans. The bill conforms vesting requirements for multi-employer plans to vesting requirements for all other qualified plans. Thus, the current law 10-year vesting rule for collectively bargained plans would be repealed and such plans would be required to comply with general vesting rules.

14. Full-Funding Limitations for Multi-Employer Plans. The bill simplifies the calculation of the full funding limitation for multi-employer plans, and requires actuarial valuations be performed at least every 3 years, instead of every year.

15. Alternative Full-Funding Limitation. current law provides a formula which limits pension contributions an employer may make to a plan, in order to prevent overfunding. The bill provides the Secretary of Treasury authority to allow employers some flexibility in determining the full-funding limitation.

16. Volunteer Employees' Beneficiary Association (VEBA). Current regulations require that employees eligible to participate in a VEBA share an employment-related common bond. The bill clarifies this requirement by specifying that an employment-related common bond includes employer affiliation where employers are in the same line of business; they act jointly to perform tasks that are integral to the activities of each of them; and that such joint activities are sufficiently extensive that the maintenance of a common VEBA is not a major part of such joint activities.

17. Government Plans. The limitations on contributions and benefits present special problems for plans maintained by State and local governments due to the special nature of the involvement and operation of such governments. The Act addresses these problems by providing (1) section 457 does not apply to excess benefit plans maintained by State or local governments, (2) the compensation limit on benefits under a defined benefit plan does not apply to plans maintained by a State or local government, and (3) the defined benefit pension plan limits do

not apply to certain disability and survivor benefits provided under State and local government plans.

Further, because of the unique characteristics of the State and local government employee plans, many long-tenured and relatively low-paid employees may be eligible to receive benefits in excess of their average compensation. Therefore, the Act provides that the current law 100% of compensation limit does not apply to plans maintained by State and local governments.

18. State and Local Government Deferred Compensation (Section 457) Plans. The Act makes 3 changes to Section 457 plan rules: (1) it indexes the dollar limit on deferrals; (2) it permits in-service distributions from accounts of less than $3,500 if there has been no amount deferred with respect to the account for 2 years and if there has been no prior distribution under this cash-out rule; and (3) it permits an additional election as to the time distributions must begin under the plan. These changes are designed to make Section 457 plan participants treated more like private plan participants.

19. Rural Cooperatives. Unlike all other section 401(k) plans, rural cooperative 401(k) plans are not permitted to make in-service distributions for hardship or after age 59½. The Act treats rural cooperative plans the same as all other 401(k) plans. The Act also clarifies the definition of a ''rural cooperative'' for purposes of determining eligibility to offer a 404(k) plan.

20. Rules for Plans Covering Pilots. The Act applies the same discrimination testing rules to pensions maintained for airland pilots, whether or not the plans are collectively-bargained. Thus, under the rules, employees who are not air pilots may be excluded from consideration in testing whether the plan satisfies the minimum coverage requirements.

21. Eligible Faculty Voluntary Retirement Incentive Plans. The Act modifies the ''risk of forfeiture'' rule governing the timing of tax liability to allow qualifying future payments under an eligible faculty voluntary retirement incentive plan to be taxes when received, as opposed to at the time the participant becomes entitled to them.

22. Uniform Retirement Act/Social Security Retirement Age. The bill recognizes that plans use age 65 as a ''normal retirement age'' in part because it is Social Security's ''normal retirement age.'' Because the ''normal retirement age'' is scheduled to increase under the Social Security law, the bill provides that for purposes of the general nondiscrimination rule, the Social Security retirement age is a uniform retirement age.

23. Blue-Ribbon Commission. The bill establishes a blue-ribbon commission which will identify the long-term goals for private retirement savings. The 18-member commission would consist of 6 members appointed by the President; 6 by the Speaker of the House; and 6 by the Senate Majority Leader.

Mr. PRYOR. Mr. President, this month I was extremely gratified when President Clinton unveiled his approach to simplify the pension rules. Many of the provisions in this legislation are also in this particular Pension Simplification Act of 1995 that I am introducing today and am joined with by my colleagues, Senators HATCH, BREAUX, and LEAHY.

I wish to thank our colleagues for helping us in this matter. I commend the President for focusing on this very important cause affecting small businesses throughout our country. I believe that by working together with our Republican colleagues on the other side of the aisle and with our President, all of us together this year can enact this legislation into law. Should we do this, small businesses across America would be extremely grateful. It is important that this legislation have support from both sides, Mr. President, and I am happy to have Senator HATCH, my fellow member of the Finance Committee, as a lead cosponsor on this bill. I wish to thank him for joining us, and I look forward to working with him on this very important legislation.

Mr. President, these new pension simplification provisions affecting small business have already been strongly endorsed by three important small business organizations:

The National Federation of Independent Business, the U.S. Chamber of Commerce, and the Small Business Council of America.

I ask unanimous consent that a copy of these letters of endorsement from these very distinguished organizations be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

SMALL BUSINESS COUNCIL
OF AMERICA
Overland Park, KS.

Re Pension simplification bill.

Hon. DAVID PRYOR,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR PRYOR: The Small Business Council of America strongly endorses the new pension simplification legislation which will streamline the country's voluntary retirement plan system and encourage savings. We particularly appreciate the provisions that target the Nation's small businesses. There is no question that these provisions will give small businesses greater access to the retirement plan system than they have had over the last decade.

We have watched with approval your unceasing drive to revive the retirement plan system. Of particular importance to our members is the repeal of family aggregation, the institution of voluntary safe harbors for 401(k) plans and the tax credit for start up costs, the recognition that for many small businesses there is no such thing as a highly compensated employee, the return of 401(a)(26) to its original purpose and the repeal of the complicated 415(e) fraction. All of these changes, as well as others set forth in the bill, will dramatically improve the existing retirement plan system. By making the system user friendly, more small businesses will sponsor retirement plans. Easing administrative burdens will reduce the costs of maintaining retirement plans particularly for small businesses.

Retirement plans sponsored by small businesses operate under a stringent and excessively complicated statutory and regulatory system. These limitations and rules are now so complicated that the costs of sponsoring a retirement plan often outweigh the benefits that a small business can reasonably expect to obtain. By making the changes called for in this legislation, with a few additional changes, the costs incurred by small businesses sponsoring retirement plans will be brought back into line. The Small Business Council of America, with its technical expertise in the small business retirement plan area, believes that the changes contemplated by this legislation will significantly improve the country's voluntary retirement plan system.

Sincerely yours,

PAULA A. CALIMAFDE.

NATIONAL FEDERATION OF
INDEPENDENT BUSINESS,
Washington, DC, June 27, 1995.

Hon. DAVID PRYOR,
U.S. Senate, Washington, DC.

DEAR SENATOR PRYOR: On behalf of the more than 600,000 members of the National Federation of Independent Business (NFIB), I wish to indicate our strong support for your legislation, The Pension Simplification Act of 1995.

NFIB believes that simplification of the regulations and reduction in the costs associated with retirement plans are of vital importance to American small business. Almost two-thirds of NFIB members strongly support pension simplification and the 1995 White House Conference on Small Business ranked pension simplification number seven out of sixty. Your legislation will increase the chances that small employers will set-up retirement plans, enabling their employees and themselves to provide for a secure retirement.

Three out of every four small businesses currently do not have retirement plans. Until small employers offer pension plans, many American workers will not be covered for their retirement outside of individual savings and Social Security.

An NFIB Education Foundation study revealed that one-third of small businesses which recently terminated their retirement plans, did so because of changing and complex regulations. Enabling small employers to implement a retirement plan without complex participation and non-discrimination rules as well as clarifying the definition of highly compensated employees will provide small employers with incentives to offer plans.

I also want to commend you for including a tax credit for small businesses equal to the cost of establishing a qualified retirement plan. And finally, NFIB supports your proposal to prohibit the IRS from issuing retirement plan regulations unless the regulation includes a section addressing the needs of small employers.

Small business owners purchase pensions coverage the same way they purchase other employee benefits. The lower the costs—in time, trouble and dollars—the more likely employers will participate. We look forward to working with you to achieve its passage.

Sincerely,

JACK FARIS,
Presdient.

CHAMBER OF COMMERCE
OF THE UNITED STATES OF AMERICA
Washington, DC, June 29, 1995.

Hon. DAVID H. PRYOR,
U.S. Senate, Washington, DC.

DEAR SENATOR PRYOR: On behalf of the U.S. Chamber of Commerce Federation of 215,000 businesses, 3,000 state and local chambers of commerce. 1,200 trade and professional associations, and 72 American Chambers of Commerce abroad, I commend you for introducing the ''Pension Simplification Act of 1995.''

The American business community is encouraged by your efforts to simplify the highly complex and overly burdensome private pension laws. We are especially pleased that many of the proposed changes in the legislation target small employers, providing incentives for small businesses to sponsor retirement plans.

As you know, the time has come to reverse the decade-old assault on private pensions,

and to enact sensible reform legislation that encourages employers to sponsor retirement plans for their employees. This legislation provides a solid framework for such reforms by making meaningful changes to many of the Internal Revenue Code provisions that currently hinder the private pension system. While the introduction of this legislation is a good start, there is much more that can and should be done to ensure that pension reform provides truly meaningful opportunities for increased savings through employer-sponsored pension plans.

The Chamber appreciates your leadership on this issue. We look forward to working with you and other members of Congress to ensure that the goals of simplifying our nation's pension laws and providing incentives for plan sponsorship are not lost as this legislation moves through Congress.

Sincerely,

R. BRUCE JOSTEN.

Mr. PRYOR. Mr. President, finally, in the coming days, I will be asking our colleagues to look closely at the Pension Simplification Act and join me in cosponsoring this effort. It is a bipartisan effort.

The bottom line is that it will increase retirement savings for workers in our country, especially those who work in small firms which, of course, is so critical to America's future.

Mr. HATCH. Mr. President, I am pleased to join with my distinguished colleague, Senator PRYOR, to introduce the Pension Simplification Act of 1995. I commend Senator PRYOR for the work he has done on this issue over the past few years.

I would also like to compliment President Clinton for his efforts in this area. We welcome the administration's suggestions on this issue.

Mr. President, simplification of this complex area of the tax law is long overdue. In 1974, the Employee Retirement Income Security Act [ERISA] was passed into law. The original intent of Congress for this act was, as the name implies, to provide security for private sector retirees. However, almost all of the laws and regulations governing private sector pensions that have been added since that time have had the completely opposite effect.

Since 1980, Congress has passed an average of one law per year affecting private sector pensions. As the rules and regulations governing pension plans have multiplied, defined benefit pension plans have become less and less attractive to employers, As a result, pension plan terminations have consistently outpaced the growth of new plans.

My colleague, Senator PRYOR, has tried to get Congress to act on pension simplification for the past 5 years. Meanwhile, an alarming number of pension plans have been terminated. Over the past 5 years, over 40,000 employee defined benefit plans have been terminated, affecting the retirement savings of more than 3 million Americans.

Pension regulation has directly affected the retirement security of millions of working Americans. The migration of employers away from defined benefit pension plans and toward defined contribution plans is a direct result of increased regulation. Employers prefer defined contribution plans because such plans are easier to administer and do not have the complex, burdensome rules that govern defined benefit plans. This movement away from defined benefit plans has effectively shifted the risks of the retirement plan investments from employers to employees.

At a time when the long-term adequacy of our Social Security Program is in question, we should be encouraging private sector retirement saving, not crippling pension plans with more and more regulation. The pension system provides a vital source of funding for the retirement needs of our nation's workforce. Over 41 million working Americans currently enrolled in private sector pension plans would directly benefit from pension simplification.

As unfortunate as the number of terminations of pension plans have been, Mr. President, the real tragedy of pension law complexity is at the small business level. Much of the burden of current pension law has fallen squarely on the shoulders of America's small businesses. Many small businesses simply cannot afford to establish pension plans for their employees.

Even if a small firm is able to establish a pension plan, current law throws up barriers to keeping the plan qualified for tax deferral treatment. Small businesses simply do not have the resources necessary to comply with all of the tests and antidiscrimination rules demanded by current law.

As a result of the heavy regulation of pension plans, lack of retirement plan sponsorship has left employees of small businesses out in the cold. Retirement plans are simply not an option for small employers because of the high cost to establish and administer them. In 1993, only 19 percent of employers with fewer than 25 employees sponsored a pension plan.

Thus, small businesses are placed at a competitive disadvantage to larger firms by our current pension law. Not only do the compliance costs take away from a small firm's profitability, but the firm's ability to attract high-quality employees is also impaired. Employees seeking retirement security prefer to work for a large company that can much more easily provide a pension plan over a small firm that cannot provide such security.

Mr. President, the Pension Simplification Act will provide relief to employers that are laboring under our outmoded and inflexible regulations to provide retirement plans for their employees. This act will restore flexibility to our pension laws and thus encourage employers, including small businesses, to offer and maintain retirement plans that are vital to the retirement security of our Nation's work force.

The Pension Simplification Act contains several provisions which will provide the relief that will result in retirement security for working Americans.

This bill introduces safe harbor rules for 401(k) plans that will help employers know whether or not their plans are qualified for tax-deferred treatment. The complex compliance tests required by current law will be eliminated.

A strong disincentive to offer defined benefit pension plans will be removed by simplifying the method for determining the nontaxable portion of annuity payments. Thus, employers would no longer have to make complex calculations to determine whether offering a defined benefit or a defined contribution plan is more advantageous.

The Pension Simplification Act also benefits State and local government pension plans by clarifying the application of the benefit limitation rules and by allowing these employers to establish 401(k)-type plans.

This bill also removes many of the burdens that small businesses face when trying to provide retirement programs for their employees. The Pension Simplification Act will make it easier for small businesses to provide retirement security for millions of Americans by providing a tax credit for starting a new pension plan. The bill also removes the complex discrimination rules for small employers and exempts small businesses from the minimum participation rules.

Mr. President, this bill targets a complex and confusing area of law. However, our goal is quite simple—increased retirement security for American workers.

The Pension Simplification Act is great bill, I urge my colleagues to join Senator PRYOR and me in supporting this important piece of legislation.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS OF THE PENSION SIMPLIFICATION ACT OF 1995

TITLE I—SIMPLIFICATION OF THE NONDISCRIMINATION PROVISIONS

Sec. 101. Definition of Highly Compensated Employee (HCE)

In general, under present law, an employee is treated as highly compensated with respect to a year if during the year or the preceding year the employee (1) was a 5-percent owner of the employer, (2) received more than $75,000 (indexed at $100,000 for 1995) in annual compensation from the employer, (3) received more than $50,000 (indexed at $66,000 for 1995) in annual compensation from the employer and was a member of the top 20 percent of employees by compensation, or (4) was an officer of the employer who received compensation greater than $45,000 (indexed at $60,000 for 1995). If, for any year, no officer has compensation in excess of $60,000, then the highest paid officer of the employer for such year is treated as an HCE.

Under present law, all family members of (1) a 5-percent owner, or (2) a HCE in the group consisting of the 10 highest paid HCEs

are treated as a single HCE and all the compensation of the family members is treated as compensation of the HCE.

The bill provides that an employee is highly compensated with respect to a year if the employee (1) was a 5-percent owner of the employer at any time during the year or the preceding year, or (2) has compensation for the preceding year in excess of $80,000 (adjusted for cost-of-living increases using a base period beginning October 1, 1995 (sec. 415(d)), or (3) was the most highly compensated officer of the employer for the preceding year.

The bill provides that the dollar limit applicable for any year is the amount in effect for the calendar year with respect to which compensation is determined under the bill. For example, assume HCEs are being determined for the 1997 plan year in the case of a calendar year plan. Under the bill, 1996 compensation is used to make this determination, and the $80,000 figure for 1996, is the applicable dollar limit for the 1997 plan year (rather than the $80,000 figure as adjusted for 1997).

Under the bill, no employee would be treated as highly compensated in a year unless he or she received compensation from the employer during the preceding year in excess of $80,000. This proposal would apply to officers and to 5-percent owners. It targets small businesses where pension coverage is very low. For detailed discussion, see Title III, Targeted Access for Employees of Small Employers, section 302, page 17.

The bill repeals the family aggregation rules.

This provision is effective for years beginning after December 31, 1995, except that for purposes of determining whether an employee is an HCE in years beginning after December 31, 1995, the provision is effective for years beginning after December 31, 1994. Thus, for example, in determining whether an employee is highly compensated for 1996 with respect to calendar year plan, the determination is to be based on whether the employee had compensation during 1995 in excess of $80,000 (not $66,000 which may have been the applicable amount for the employee in 1995 prior to this bill).

Sec. 102. Definition of compensation under Section 415

Generally under present law, the section 415 limits with respect to an individual are based in part on the individual's taxable compensation. The general limit on a participant's annual additions under a defined contribution plan is the lesser of $30,000 or 25% of the participant's taxable compensation.

For example, assume a plan participant has a $20,000 salary. The 25% of compensation limit would generally permit the participant to have an annual addition of $5,000 (25% $20,000). However, because pre-tax employee contributions to a cafeteria plan would reduce the employee's taxable compensation from $20,000, any such contributions would also reduce the participant's section 415 limit. Moreover, contributions to a 401(k) plan, and other types of pre-tax employee contributions, would further reduce the participant's taxable compensation and section 415 limit.

The effect of pre-tax employee contributions makes it difficult to communicate in advance the section 415 limit applicable to each employee; this issue also leads to numerous inadvertent violations of section 415. Moreover, the reduction of the section 415 limit caused by pre-tax employee contributions primarily affects nonhighly compensated employees; this is so in part because section 125 contributions generally do not vary with compensation and thus have a proportionately smaller effect on higher paid employees.

Under the proposal, pre-tax employee contributions described in sections 402(g), 125, or 457 would be counted as compensation for purposes of section 415. In previous Pension Simplification bills this provision was limited to state and local governmental plans, however, the bill expands the provision to all plans.

Sec. 103. Modification of Additional Participation Requirements

Under present law, a plan is not a qualified plan unless it benefits no fewer than the lesser of (1) 50 employees or (2) 40 percent of all employees of an employer (sec. 401(a)(26)). This minimum participation rule cannot be satisfied by aggregating comparable plans, but can be applied separately to different lines of business of the employer. A line of business of the employer does not qualify as a separate line of business unless it has at least 50 employees. Also, certain employees may be disregarded in applying the rules.

The bill provides that the minimum participation rule applies only to defined benefit pension plans. In addition, the bill provides that a defined benefit plan does not satisfy the rule unless it benefits no fewer than the lesser of (1) 50 employees or (2) the greater of (a) 40 percent of all employees of the employer or (b) 2 employees (or 1 employee if there is only 1 employee). The separate line of business and excludable employee rules apply as under present law.

In the case of an employer with only 2 employees, a plan satisfies the present-law minimum participation rule if the plan covers 1 employee. However, under the bill, a plan satisfies the minimum participation rule only if it covers both employees.

The provision is effective for years beginning after December 31, 1995.

Sec. 104. Nondiscrimination Rules for Qualified Cash or Deferred Arrangements

a. In general: The bill modifies the present-law nondiscrimination test applicable to elective deferrals and employer matching and after-tax employee contributions to provide that the maximum permitted ADP or ACP for HCEs for the year is determined by reference to the ADP or ACP for nonhighly compensated employees for the preceding, rather than the current year. In the case of the first plan year of the plan, the ADP or ACP of nonhighly compensated employees for the previous year is deemed to be 3 percent or, at the election of the employer, the actual ADP or ACP for such plan year.

b. Section 401(k) Safe Harbor: Under present law, the special nondiscrimination test applicable to elective deferrals under qualified cash or deferred arrangements (401(k)s) is satisfied if the actual deferral percentage (ADP) under a cash or deferral arrangement for eligible HCEs for a plan year is equal to or less than either (1) 125 percent of the ADP of all non-highly compensated employees eligible to defer under the arrangement, or (2) the lesser of 200 percent of the ADP of all eligible nonhighly compensated employees or such ADP plus 2 percentage points (section 401(k)). The ADP for a group of employees is the average of the ratios (calculated separately for each employee in the group) of the contributions paid to the plan on behalf of the employee to the employee's compensation.

A cash or deferred arrangement that satisfies the special nondiscrimination test is deemed to satisfy the nondiscrimination requirement applicable to qualified plans with respect to the amount of contribution or benefits (section 401(a)(4)).

In addition, under present law, a special nondiscrimination test is applied to employer matching contributions and after-tax employee contributions (section 401(m)). This special nondiscrimination test is similar to the special nondiscrimination test in section 401(k).

An employer matching contribution means (1) any employer contribution made on behalf of an employee on account of an employee contribution made by such employee, and (2) any employer contribution made on behalf of an employee on account of an employee's elective deferral.

The bill adds alternative methods of satisfying the special nondiscrimination requirements applicable to elective deferrals and employer matching contributions. Under these safe harbor rules, a cash or deferred arrangement is treated as satisfying the ADP test if the plan of which the arrangement is a part (or any other plan of the employer maintained with respect to the employees eligible to participate in the cash or deferred arrangement) meets (1) one of two contribution requirements and (2) a notice requirement. These safe harbors permit a plan to satisfy the special nondiscrimination tests through plan design, rather than through the testing of actual contributions.

A plan satisfies the contribution requirements under the safe harbor rule for qualified cash or deferred arrangements if the plan either (1) satisfies a matching contribution requirement or (2) the employer makes a contribution to the plan of at least 3 percent of an employee's compensation on behalf of each nonhighly compensated employee who is eligible to participate in the arrangement without regard to whether the employee makes an elective contribution under the arrangement. Under both tests, contributions may also be made to highly compensated employees.

A plan satisfies the matching contribution requirement if, under the arrangement: (1) the employer makes a matching contribution on behalf of each nonhighly compensated employee that is not less than (a) 100 percent of the employee's elective contributions up to 3 percent of compensation and (b) 50 percent of the employee's elective contributions from 3 to 5 percent of compensation; and (2) the level of match for highly compensated employees is not greater than the match rate for nonhighly compensated employees.

Alternatively, if the matching contribution requirement is not satisfied at some level of employee compensation, the requirement is deemed to be satisfied if (1) the level of employer matching contributions does not increase as employee elective contributions increase and (2) the aggregate amount of matching contributions with respect to elective contributions up to that level of compensation at least equals the amount of matching contributions required under the general safe harbor rule.

Under the safe harbor, an employee's rights to employer matching contributions or nonelective contributions used to meet the contribution requirements are required to be 100 percent vested.

An arrangement does not satisfy the contribution requirements with respect to nonelective contributions unless the requirements are met without regard to the permitted disparity rules (sec. 401(1)), and nonelective contributions used to satisfy the contribution requirements are not taken into account for purposes of determining whether a plan of the employer satisfies the permitted disparity rules. It is intended that the rule applies to matching contributions as well.

Employer matching and nonelective contributions used to satisfy the contribution requirements of the safe harbor rules are subject to the restrictions on withdrawals

that apply to an employee's elective deferrals under a qualified cash or deferred arrangement (sec. 401(k)(2)(B)).

The notice requirement is satisfied if each employee eligible to participate in the arrangement is given written notice within a reasonable period before any year of the employee's rights and obligations under the arrangement. This notice must be sufficiently accurate and comprehensive to apprise the employee of his or her rights and obligations and must be written in a manner calculated to be understood by the average employee eligible to participate.

c. Alternative method of satisfying special nondiscrimination test for matching contributions: The bill provides a safe harbor method of satisfying the special nondiscrimination test applicable to employer matching contributions. Under this safe harbor, a plan is treated as meeting the special nondiscrimination test with respect to matching contributions if (1) the plan meets the contribution and notice requirements applicable under the safe harbor method of satisfying the special nondiscrimination requirement for qualified cash or deferred arrangements, and (2) the plan satisfies a special limitation on matching contributions. After-tax employee contributions continue to be tested separately under the present ACP test, taking into account both employee contributions and employer matches in calculating contribution percentages.

The limitation on matching contributions is satisfied if (1) matching contributions on behalf of any employee may not be made with respect to employee contributions or elective deferrals in excess of 6 percent of compensation and (2) the level of an employer's matching contribution does not increase as an employee's contributions or elective deferrals increase.

TITLE II.—SIMPLIFIED DISTRIBUTION RULES

Under present law, distributions from tax-favored retirement arrangements are generally includable in gross income when received, however special rules apply in certain circumstances.

For example, certain distributions from tax-favored retirement arrangements attributable to contributions prior to January 1, 174, could qualify for treatment as long-term capital gains.

Under present law, a taxpayer may elect to have 5-year forward averaging apply to a lump-sum distribution from a qualified plan. Such an election may be made with respect to a distribution received on or after the employee attains age 59½ and only one election may be made with respect to an employee.

Prior to the Tax Reform Act of 1986, 10-year forward averaging was available with respect to lump-sum distributions. The Tax Reform Act replaced 10-year averaging with 5-year averaging and phased out capital gains treatment. The Tax Reform Act provided transition rules which generally preserved prior-law treatment in the case of certain distributions with respect to individuals who attained age 50 before January 1, 1986.

Under present law, a taxpayer is not required to include in gross income amounts received in the form of a lump-sum distribution to the extent that the amounts are attributable to net unrealized appreciation in employer securities. Such unrealized appreciation is includable in income when the securities are sold.

The bill eliminates 5-year averaging for lump sum distributions from qualified plans, repeals the $5000 employer-provided death benefit exclusion, and simplifies the basis recovery rules applicable to distributions from qualified plans. In addition, the bill modifies the rule that generally requires all participants to commence distributions by age 70½.

Sec. 201. Repeal of 5-Year Income Averaging for Lump-Sum Distributions

The bill repeals the special 5-year forward averaging rule. The original intent of the income averaging rules for pension distributions was to prevent a bunching of taxable income because a taxpayer received all of the benefits in a qualified plan in a single taxable year. Liberalization of the rollover rules enacted in 1992, as originally part of this bill, increases the flexibility of taxpayers in determining the time of the income inclusion of pension distributions, and eliminates the need for special rules to prevent bunching of income.

The bill preserves the transition rules for 10 year averaging adopted in the Tax Reform Act; in addition, the repeal of 5-year averaging is not applicable to individuals eligible for those transition rules. The bill also retains the present-law treatment of net unrealized appreciation on employer securities and generally retains the definition of lump-sum distribution solely for such purpose.

The provisions are effective with respect to distributions after December 31, 1995.

Sec. 202. Simplified Method for Taxing Annuity Distribution Under Certain Employer Plans

Under the bill, the portion of an annuity distribution from a qualified retirement plan, qualified annuity, or tax-sheltered annuity that represents nontaxable return of basis generally is determined under a method similar to the present-law simplified alternative method provided by the IRS. Under the simplified method provided in the bill, the portion of each annuity payment that represents nontaxable return of basis generally is equal to the employee's total investment in the contract as of the annuity starting date, divided by the number of anticipated payments determined by reference to the age of the participant listed in the table set forth in the bill. The number of anticipated payments listed in the table is based on the employee's age on the annuity starting date. If the number of payments is fixed under the terms of the annuity, that number is to be used instead of the number of anticipated payments listed in the table.

The simplified method does not apply if the primary annuitant has attained age 75 on the annuity starting date unless there are fewer than 5 years of guaranteed payments under the annuity. If in connection with commencement of annuity payments, the recipient receives a lump-sum payment that is not part of the annuity stream, such payment is taxable under the rules relating to annuities (section 72) as if received before the annuity starting data, and the investment in the contract used to calculate the simplified exclusion ratio for the annuity payments is reduced accordingly.

As under present law, in no event will the total amount excluded from income as nontaxable return of basis be greater than the recipient's total investment in the contract.

Sec. 203. Required Distributions

Under present law, distributions under all qualified plans, IRAs, tax-sheltered custodial accounts and annuities, and eligible deferred compensation plans of State and local governments are required to begin no later than April 1 of the calendar year following the calendar year in which the participant or owner attains age 70½, without regard to the actual date of separation from service. In the case of church plans and governmental plans, distributions are required to begin no later than the later of the April 1 date described above or April 1 of the calendar year following the calendar year in which the participant retires.

The bill repeals the rule that requires all participants in qualified plans to commence distributions by age 70½ without regard to whether the participant is still employed by the employer, and therefore, generally replaces it with the rule in effect prior to the Tax Reform Act. Thus, under the bill, distributions are required to begin by April 1 of the calendar year following the later of (1) the calendar year in which the employee attains age 70½, or (2) the calendar year in which the employee retires. In the case of a 5-percent owner of the employer, distributions are required to begin no later than April 1 of the calendar year following the year in which the 5-percent owner attains age 70½. Distributions from an IRA are required to begin no later than April 1 of the calendar year following the year in which the IRA owner attains age 70½.

In addition, in the case of an employee (other than a 5-percent owner) who retires in a calendar year after attaining age 70½, the bill requires the employee's accrued benefit to be actuarially increased to take into account the period after age 70½ in which the employee was not receiving benefits under the plan. Thus, under the bill, the employee's accrued benefit is required to reflect the value of benefits that the employee would have received if the employee had retired at age 70½ and began receiving benefits at that time.

The actuarial adjustment rules does not apply, under the bill, in the case of a governmental plan or church plan.

This provision applies to years beginning after December 31, 1995.

TITLE III.—TARGETED ACCESS FOR EMPLOYEES OF SMALL EMPLOYERS.

Sec. 301. Tax Credit for the Cost of Establishing a Plan for Small Employers

Retirement plan coverage among employees of small employers is dismally low. The cost of establishing a retirement plan is, in a significant way, disproportionately high for small employers. Many costs of plan establishment—plan design, plan drafting, application for IRS approval—are relatively fixed. Accordingly, the per-employee costs can be much higher for a small employer than for a large employer.

Under the proposal, employers with 50 or fewer employees, that have not maintained a qualified retirement plan at any time during the immediately preceding two years, would be eligible for an income tax credit (up to a maximum of $1,000) equal to the cost of establishing a qualified retirement plan.

Sec. 302. Elimination of the One-High-Paid-Officer Rule

Under present law, the term highly compensated employee includes the employer's highest paid officer even if no employee in the plan receives over $45,000 (indexed to $60,000 in 1995).

The application of the highest paid officer rule is unfair for small employers with low-wage workforces. For example, the highest paid officer of a small employer may earn less than $66,000, yet that employee is highly compensated under this rule. If the same individual less than $66,000 working for a large employer with numerous highly paid employees, that individual would not be defined as highly compensated.

Because the individual described above is considered highly compensated, the nondiscrimination rules can severely limit his or her benefits (such as 401(k) contributions). In fact, due to the way the nondiscrimination rules work, these limitations are actually more restrictive for the $30,000-a-year HCE of a small employer than they are for the $150,000-a-year executive of a large employer. These limitations can, in turn, result in the small employer deciding not to establish a plan or deciding to terminate an existing plan.

Under the bill, no employee would be treated as highly compensated in a year unless he or she received compensation from the employer during the preceding year in excess of $80,000. This proposal would apply not only to officers but also to 5-percent owners.

This proposal would, however, be subject to two conditions. First, the proposal would not apply to any plan maintained by the employer unless the plan makes all contributions, benefits, and other plan features available on a nondiscriminatory basis. For this purpose, 5-percent owners would be treated as highly compensated; if there are no 5-percent owners, the highest paid officer for the preceding year would be an HCE.

The purpose of the conditions set forth above is to prevent abuse. The conditions would, for example, prevent an employer from establishing a plan solely (or primarily) for the owner.

The second condition is that this proposal would not apply to the extent provided in regulations. The purpose of this second condition is to prevent business owners from avoiding HCE status by treating an amount as compensation that is less than reasonable compensation.

This provision is effective for years beginning after December 31, 1995, except that for purposes of determining whether an employee is an HCE in years beginning after December 31, 1995, the provision is effective for years beginning after December 31, 1994. Thus, for example, in determining whether an employee is highly compensated for 1996 with respect to a calendar year plan, the determination is to be based on whether the employee had compensation during 1995 in excess of $80,000 (not $66,000 which may have been the applicable amount for the employee in 1995 prior to this bill).

Sec. 303. Salary Reduction Simplified Employee Pensions

Under present law, a simplified employee pension (SEP) is an individual retirement plan established with respect to an employee that meets certain requirements. Employers with 25 or fewer employees may provide that contributions to a SEP maybe made on a salary reduction basis.

The bill conforms the eligibility requirements for SEP participation to the rules applicable to pension plans generally by providing that contributions to a SEP must be made with respect to each employee who has at least one year of service with the employer.

The bill adds alternative methods of satisfying the special nondiscrimination requirements for SEPs applicable to elective deferrals and employer matching contributions. These are the same alternative methods or ''safe harbors'' discussed in Title I.-section 104 above, relating to 401(k) plans.

Further, the bill modifies the rules relating to salary reducion SEPs by providing that such SEPs may be established by employers with 100 or fewer employees.

The bill also repeals the requirement that at least half of eligible employees actually participate in a salary reduction SEP.

The provision applies to years beginning after December 31, 1995.

Sec. 304. Exemption From Top Heavy Plan Requirements

In general, under present law, a top-heavy plan is required to satisfy special requirements regarding vesting, minimum benefits or contributions, and section 415. The requirements regarding minimum benefits or contributions are particularly burdensome. For example, a small employer may maintain a plan that permits employees to make section 401(k) contributions and that provides matching contributions on behalf of employees who make the section 401(k) contributions. Generally, if such a plan is top-heavy, all non-key employees must receive nonelective contributions equal to at least 3% of compensation, even though the plan does not otherwise provide for nonelective contributions.

The top-heavy plan rules were intended to address situations where an excessive percentage of a plan's retirement benefits is attributable to the highly paid executives and owners of the business. However, the rules actually apply more broadly and are applicable to small businesses where none of the owners and officers of the business is highly paid. In these cases, the top-heavy plan rules place a burden on middle-income individuals solely because they are owners or officers of a small business.

Under the bill, if no employee makes over $80,000 (as provided in the bill's new definition of ''highly compensated employee'') in the preceding year, the top-heavy plan requirements do not apply for that year.

Sec. 305. Tax Exempt Organizations Eligible Under Section 401(k)

Under present law, tax-exempt organizations are generally prohibited from establishing qualified cash or deferred arrangements (401(k)s). Because of this limitation, many such employers are precluded from maintaining broad-based, funded, elective deferral arrangements for their employees.

The bill allows tax-exempt organizations (other than 501(c)(3)s, State and Local governments, and their agencies and instrumentalities who have available salary deferral arrangements) to maintain 401(k)s.

The provision applies to years beginning after December 31, 1995.

Sec. 306. Regulatory Treatment of Small Employers

Unlike large employers, small employers often do not have the resources to monitor and affect the development of regulations relating to qualified retirement plans. Accordingly, such regulations often do not take into account the unique circumstances of small employers.

Under the bill, no IRS regulation relating to a qualified retirement plan could become effective unless the regulation includes a section addressing the special needs of small employers.

The provision is effective for regulations issued after date of enactment.

TITLE V.—PAPERWORK REDUCTION.

Sec. 401. Repeal Section 415(e)

Section 415(e) applies an overall limit on benefits and contributions with respect to an individual who participates in both a defined contribution plan and a defined benefit plan maintained by the same employer. These rules are extremely complicated. They are also very burdensome to administer because they require maintaining compensation and contribution records for all employees for all years of service.

The section 415(e) limit is not the only limit in the Code that safeguards against an individual accruing excessive retirement benefits on a tax-favored basis. For example, section 401(a)(17) provides for limitations on compensation that can be taken into account for benefits and contributions to qualified plans; section 401 provides extensive nondiscrimination rules; and section 415 provides limits on contributions paid to and benefits paid from qualified plans. Taken in combination, these provisions sufficiently constrain excessive tax-favored benefits accruing to highly compensated employees. In addition, a 15% ''excess distribution'' penalty achieves many of the same goals as Section 415(e).

Because Section 415(e) is both cumbersome and duplicative, the bill repeals this provision.

The provision is effective for years beginning after December 31, 1995.

Sec. 402. Duties of Sponsors of Certain Prototype Plans

The IRS master and prototype program is an administrative program under which trade and professional associations, banks, insurance companies, brokerage houses, and other financial institutions can obtain IRS approval of model retirement plan language and then make these preapproved plans available for adoption by the customers, investors, or association members.

Master and prototype plans reduce the costs and burdens of administering plans, especially for small to medium sized employers, and improve IRS administration of plan rules.

Today, a majority of employer-provided qualified plans are approved master and prototype plans. Further expansion of the program is desirable, but statutory authority should be given to the IRS to define the duties of master and prototype sponsors before the program becomes more widely utilized.

The bill authorizes the IRS to define the duties of organizations that sponsor master and prototype, regional prototype, and other preapproved plans, including mass submitters. The provision's purpose is to protect employers against the loss of qualification merely because they are unaware of the need to arrange for certain administrative services, or the unavailability of professional assistance from parties familiar with the sponsor's plan. The bill should not be construed as creating fiduciary relationships or responsibilities under Title I of ERISA that would not exist in the absence of the provision.

TITLE V.—MISCELLANEOUS PROVISIONS

Sec. 501. Treatment of Leased Employees

Under present law, an individual performing services is treated as a leased employee of a service recipient for certain employee benefit purposes if (1) the individual is not a common law employee of the service recipient, (2) the services are provided pursuant to an agreement between the recipient and any other person, (3) the individual performs services for the recipient on a substantially full-time basis for a period of at least one year, and (4) the services are of a type historically performed in the business field of the recipient by employees.

The bill replaces the historically performed test with a control test. Thus, under the bill, an individual is a leased employee of a service recipient only if the services are performed by the individual under the control of the recipient.

The provision is effective for taxable years beginning after December 31, 1995.

Sec. 501. Plans Covering Self-Employed Individuals

Prior to the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) different rules applied to retirement plans maintained by incorporated employers and unincorporated employers (such as partnerships and sole proprietors). In general, plans maintained by unincorporated employers were subject to special rules in addition to the other qualification requirements of the Code. TEFRA eliminated most, but not all, of this disparity.

Under present law, certain special aggregation rules apply to plans maintained by owner-employers that do not apply to other qualified plans (sec. 401(d) (1) and (2)). The bill eliminates these special rules.

The provision applies to years beginning after December 31, 1995.

Sec. 503. Elimination of Special Vesting Rule for Multiemployer Plans

Under present law, except in the case of multiemployer plans, a plan is not a qualified plan unless a participant's employer-

provided benefit vests at least as rapidly as under 1 of 2 alternative minimum vesting schedules. A plan satisfies the first schedule if a participant acquires a nonforfeitable right to 100 percent of the participant's accrued benefit derived from employer contributions upon the participant's completion of 5 years of service.

A plan satisfies the second schedule if a participant has a nonforfeitable right to at least 20 percent of the participant's accrued benefit derived from employer contributions after 3 years of service, 40 percent at the end of 4 years of service, 60 percent at the end of 5 years of service, 80 percent a the end of 6 years of service, and 100 percent at the end of 7 years of service.

In the case of a multiemployer plan, a participant's accrued benefit derived from employer contributions is required to be 100 percent vested no later than upon the participant's completion of 10 years of service. This special rule applies only to employees covered by the plan pursuant to a collective bargaining agreement.

The bill conforms the vesting rules for multiemployer plans to the rules applicable to other qualified plans.

The provision is effective for plan years beginning on or after the earlier of (1) the later of January 1, 1996, or the date on which the last of the collective bargaining agreements pursuant to which the plan is maintained terminates, or (2) January 1, 1998, with respect to participants with an hour of service after the effective date.

Sec. 504. Full Funding Limitation of Multi-Employer Plans

Under present law, a deduction is allowed (within limits) for employer contributions to a qualified pension plan. No deduction is allowed for contributions in excess of the full funding limit. The full funding limit is the excess, if any, of (1) the lesser of (a) the accrued liability under the plan (including normal cost) or (b) 150 percent of a plan's current liability, over (2) the lesser of (a) the fair market value of the plan's assets or (b) the actuarial value of the plan's assets.

Plans subject to the minimum funding rules are required to make an actuarial valuation of the plan not less frequently than annually.

The bill provides that the 150 percent of current liability limitation does not apply to multi-employer plans. Consistent with this change, the bill also repeals the present law annual valuation requirement for multi-employer plans and applies the prior law requirement that valuations be performed at least every 3 years.

The provision applies to years beginning after December 31, 1995.

Sec. 505. Alternative full-funding limitation

The Secretary may, under regulations, adjust the 150-percent figure contained in the full funding limitation to take into account the average age (and length of service, if appropriate) of the participants in the plan (weighed by the value of their benefits under the plan). In addition, the Secretary is authorized to prescribe regulations that apply, in lieu of the 150 percent of current liability limitation, a different full funding limitation based on factors other than current liability. The Secretary may exercise this authority only in a manner so that in the aggregate, the effect on Federal budge receipts is substantially identical to the effect of the 150-percent full funding limitation.

The bill provides that an employer may elect to disregard the 150-percent limitation if each plan in the employer's control group is not top-heavy and the average accrued liability of active participants under the plan for the immediately preceding 5 plan years is at least 80-percent of the plan's total accrued liability (the ''alternative full funding limitation''). The Secretary is required to adjust the 150-percent full funding limitation (in the manner specified under the bill) for employers that do not use the alternative full funding limit to ensure that the election by employers to disregard the 150-percent limit does not result in a substantial reduction in Federal revenues for any fiscal year.

Under the bill, employers electing to apply the alternative limitation generally must notify the Secretary by January 1 of the calendar year preceding the calendar year in which the election period begins. The provision is effective on January 1, 1997.

Sec. 506. Affiliation Requirements for Employers Jointly Maintaining a VEBA

Treasury regulations require that employees eligible to participate in a voluntary employees' beneficiary association (''VEBA'') share an employment-related common bond. Under the regulations, employees employed by a ''common employer (or affiliated employers)'' are considered to have such a bond.

Under the bill, employers are considered affiliated for purposes of the VEBA rules if (1) such employers are in the same line of business, (2) the employers act jointly to perform tasks that are integral to the activities of each of the employers, and (3) such joint activities are sufficiently extensive that the maintenance of a common VEBA is not a major part of such joint activities.

Under the bill, employers are considered affiliated, for example, in the following circumstances: the employers participating in the VEBA are in the same line of business and belong to an association that provides to its members a significant amount of each of the following services: (1) research and development relating to the members' primary activity; (2) education and training of members' employees; and (3) public relations. In addition, the employers are sufficiently similar (e.g., subject to similar regulatory requirements) that the association's services provide material assistance to all of the employers. The employers also demonstrate the importance of their joint activities by having meetings at least annually attended by substantially all of the employers. Finally, the employers maintain a common retirement plan.

On the other hand, it is not intended that the mere existence of a trade association is a sufficient basis for the member-employees to be considered affiliated, even if they are in the same line of business. It is also not sufficient if the trade association publishes a newsletter and provides significant public relations services, but only provides nominal amounts, if any, of other services integral to the employers' primary activity.

A group of employers are also not considered affiliated under the bill by virtue of the membership of their employees in a professional association.

This bill is intended as a clarification of present law, but is not intended to create any inference as to whether any part of the Treasury regulations affecting VEBAs, other than the affiliated employer rule, is or is not present law.

Sec. 507. Treatment of Certain Governmental Plans under Section 415

Under present law, the limitations on benefits and contributions (section 415) generally apply to plans maintained by State and local governments.

Under present law, unfunded deferred compensation plans maintained by State and local government employers are subject to certain limitations (sec. 457). For example, such plans generally may not permit deferred compensation in excess of $7,500 in a single year.

The limitations on contributions and benefits present special problems for plans maintained by State and local governments due to the special nature of the involvement and operation of such governments.

The bill addresses these problems by providing that (1) section 457 does not apply to excess benefit plans maintained by a State or local government, (2) the compensation limitation on benefits under a defined benefit pension plan does not apply to plans maintained by a State or local government, and (3) the defined benefit pension plan limits do not apply to certain disability and survivor benefits provided under such plans. Excess plans maintained by a State or local government are subject to the same tax rules applicable to such plans maintained by private employers.

Under present law, benefits under a defined benefit plan generally may not exceed 100 percent of the participant's average compensation. However, because of the unique characteristics of State and local government employee plans, many long-tenured and relatively low-paid employees may be eligible to receive benefits in excess of their average compensation as a result of cost-of-living increases. The bill provides that the 100 percent of compensation limitation does not apply to plans maintained by State and local governments.

The provision is effective for taxable years beginning on or after the date of enactment. Governmental plans are treated as if in compliance with the requirements of section 415 for years beginning on or before the date of enactment.

Sec. 508. Treatment of Deferred Compensation Plans of State and Local Governments and Tax-Exempt Organizations

Under a section 457 plan, an employee who elects to defer the receipt of current compensation will be taxed on the amounts deferred when such amounts are paid or made available. The maximum annual deferral under such a plan is the lesser of (1) $7500 or (2) 33½ percent of compensation (net of the deferral).

In general, amounts deferred under a section 457 plan may not be made available to an employee before the earlier of (1) the calendar year in which the participant attains age 70½, (2) when the participant is separated from service with the employer, or (3) when the participant is faced with an unforeseeable emergency. Amounts that are made available to an employee upon separation from service are includable in gross income in the taxable year in which they are made available.

Under present law, benefits under a section 457 plan are not treated as made available if the participant may elect to receive a lump sum payable after separation from service and within 60 days of the election. This exception to the general rules is available only if the total amount payable to the participant under the plan does not exceed $3500 and no additional amounts may be deferred under the plan with respect to the participant.

The bill makes three changes. First, the bill permits in-service distributions of accounts that do not exceed $3500 if no amount has been deferred under the plan with respect to the account for 2 years and there has been no prior distribution under this cash-out rule.

Second, the bill increases the number of elections that can be made with respect to the time distributions must begin under the plan. The bill provides that the amount payable to a participant under a 457 plan is not to be treated as made available merely because the participant may elect to defer commencement of distributions under the plan if (1) the election is made after amounts may be distributed under the plan but before

the actual commencement of benefits, and (2) the participant makes only 1 such additional election. This additional election is permitted without the need for financial hardship, and the election can only be to a date that is after the date originally selected by the participant.

Finally, the bill provides for indexing of the dollar limit on deferrals.

The provisions are effective for taxable years beginning after the date of enactment.

Sec. 509. Contributions on Behalf of Disabled Employees

Under present law, special limitations on contributions to a defined contribution plan apply in the case of certain disabled participants. In particular, the compensation of a disabled participant in a defined contribution plan is treated, for purposes on the limitations or contributions and benefits, as the compensation the participant received before becoming disabled if (1) the participant is permanently and totally disabled (within the meaning of sec. 22(c)(3)), (2) the participant is not a highly compensated employee, and (3) the employer elects to have this special rule apply.

The bill makes requirements (2) and (3) inapplicable if the defined contribution plan provides for the continuation of contributions on behalf of all participants who are permanently and totally disabled.

It is not intended, however, that an employer be able to provide contributions on behalf of all disabled participants only during certain years so as to favor highly compensated participants over nonhighly compensated participants. Accordingly, if an employer provides for contributions on behalf of all disabled participants and subsequently amends its plan to delete such contributions, the plan shall cease to be qualified if the timing of the amendment results in discrimination in favor of highly compensated participants.

The provision applies to years beginning after December 31, 1995.

Sec. 510. Technical Clarifications of Section 401(k) for Rural Cooperative Plans

Under present law, a qualified section 401(k) arrangement must be a part of one of the following: a profit-sharing or stock bonus plan, a pre-ERISA money purchase plan, or a rural cooperative plan.

A ''rural cooperative plan'' is defined generally to mean a defined contribution pension plan that is maintained by a rural cooperative. with respect to rural electric cooperatives, a rural cooperative is generally defined to mean any organization that (1) is tax-exempt or is a State or local government, and (2) ''is engaged primarily in providing electric service on a mutual or cooperative basis.''

Present law was clearly intended to permit the rural electric cooperatives to continue to maintain their section 401(k) plan. However, there are two technical issues that should be clarified in order to better achieve this objective.

First, in the vast majority of states, rural electric systems are organized as cooperatives. However, in some states, some utilities are organized as public power districts. Public power districts are subdivisions of a state that provide electric service. Thus, they would clearly fall within the definition of a rural cooperative but for the requirement that a rural cooperative provide electric service ''on a mutual or cooperative basis.''

This requirement is not further defined in the statute or regulations. Accordingly, some concern is warranted with respect to whether a public power district satisfies this requirement since they are political subdivisions of a state and do not have the member ownership traditionally required for mutual or cooperative status.

Secondly, many rural electric cooperatives participate in a multiple employer money purchase pension plan that contains a section 401(k) arrangement. This multiple employer plan must fit within the definition of a rural cooperative plan in order for the section 401(k) arrangement to be qualified. An issue therefore arises due to the fact that the definition of a ''rural cooperative'' does not include taxable cooperatives. Although the vast majority of rural electric cooperatives are tax-exempt, some within these multiple employer plans are taxable. It is unclear whether this would cause the section 401(k) arrangement in the multiple employer plan to fail to be qualified with respect to the participating taxable cooperatives.

The bill clarifies both of these potential problems by providing that the definition of a ''rural cooperative'' would be modified to include, in addition, any other organization that is providing electric service. However, this expansion of the definition would only apply with respect to section 401(k) plans in which substantially all of the employers fit within the present-law definition of a rural cooperative. This limitation prevents unintended expansion of the term ''rural cooperative plan.''

In addition, under present law, unlike all other section 401(k) plans (other than certain pre-ERISA plans), rural cooperative plans are not permitted to make in-service distributions for hardship or after age 59-½. Under the proposal, rural cooperative plans would be permitted to make such distributions after the date of enactment.

Sec. 511. Rules for Plans Covering Pilots

Under present law, employees covered by a collective bargaining agreement are excluded from consideration in testing whether a qualified retirement plan satisfies the minimum coverage and non discrimination requirements (section 410(b)(3)). Similarly, in the case of a plan established pursuant to a collective bargaining agreement between airline pilots and one or more employers, all employees not covered by the collective bargaining agreement are disregarded for purposes of testing whether the plan satisfies the minimum coverage and nondiscrimination requirements (section 410(b)(3)(B)). This provision applies only in the case of a plan that provides contributions or benefits for employees whose principal duties are customarily performed abroad aircraft in flight. Thus, a collectively bargained plan covering only airline pilots in tested separately from employees who are not air pilots.

The bill provides that, in the case of a plan established to provide contributions or benefits for air pilots employed by one or more common carriers engaged in interstate or foreign commerce on air pilots employed by carriers transporting mail for or under contract with the United States Government, all employees who are not air pilots are excluded from consideration in testing whether the plan satisfies the minimum coverage requirements (whether or not they are covered by a collective bargaining agreement).

The provision is effective for years beginning after December 31, 1995.

Sec. 512. Tenured Faculty

Present law section 457 governs and provides limits for nonqualified deferred compensation arrangements of a governmental or tax-exempt employers. Under section 457(f), an individual is taxed on the value of the benefits under an ineligible arrangement when there is no risk of forfeiture of the benefit, rather than when any benefit is received. Risk of forfeiture is generally tied to the performance of future services. For example, if an employer adopted an early retirement incentive to pay a yearly supplement of $10,000 over 5 years, the retiree will be taxed on the present value of the full $50,000 in the year of retirement notwithstanding the fact that he only received a payment of $10,000.

Under the bill, ''eligible faculty voluntary retirement incentive plans'' are not subject to the taxation provisions of section 457(f). Payments under such plans will be taxed when they are made available to participants, rather than when a risk of forfeiture lapses. An ''eligible faculty voluntary retirement incentive plan'' means a plan established for employees serving under contracts of unlimited tenure at an institution of higher learning. Total benefits under the contract cannot exceed two times annual compensation, and all payments must be completed over a five-year period.

The provision is effective for years beginning after December 31, 1995.

Sec. 513. Uniform Retirement Age

A qualified plan generally must provide that payment of benefits under the plan must begin no later than 60 days after the end of the plan year in which the participant reaches age 65. Also, for purposes of the vesting and benefit accrual rules, normal retirement age generally can be no later than age 65. For purposes of applying the limits on contributions and benefits (section 415), social security retirement age is generally used as retirement age. The social security retirement age as used for such purposes is presently age 65, but is scheduled to gradually increase.

The bill provides that for purposes of the general nondiscrimination rule, the social security retirement age is a uniform retirement age and that subsidized early retirement benefits and joint and survivor annuities are not treated as not being available to employees on the same terms merely because they are based on an employee's social security retirement age.

The provision is effective for years beginning after December 31, 1995.

Sec. 514. Reports of Pension and Annuity Payments

The penalty reform provisions of the Omnibus Budget Reconciliation Act of 1989 revised the penalties imposed for failures to file correct and timely information returns to IRS, and to provide statements to payees. This revised penalty structure applies to 18 different types of reportable payments. Section 6724(d)(1).

However, this developed structure does not apply to reports of pension and annuity payments required under section 6047(d). It also does not apply to certain reports required by sections 408(i) and 408(*l*) relating to IRAs and SEPs.

The bill provides that the definition of ''information return'' under section 6724(d) includes reports of pension and annuity payments required by section 6047(d), and any report required under subsection (i) or (*l*) of section 408.

Similarly, the definition of ''payee statement'' under section 6724(d)(2) is amended to include reports of pension and annuity payments required by section 6047(d) and any report required under subsection (i) or (*l*) of section 408. The bill provides that section 6652(e) is amended to delete reports of designated distributions from the scope of its $25 per day penalty.

Under present law, interest and dividend payments do not have to be reported if less than $10 is paid to a person in any year. Miscellaneous income need not be reported unless it exceeds $600. However, the law currently contains no dollar threshold for reports of ''designated distributions''—primarily pension and annuity payments. The bill provides a $10 reporting threshold for designated distributions.

Sec. 515. National Commission on Private Pension Plans

In 1974, Congress first recognized the importance of the Federal Government taking an active role in creating a system where American workers could earn private pension benefits to supplement Social Security and ensuring that promised pension benefits are paid. It did this by passing the Employment Retirement Income Security Act (ERISA).

Today, our private pension system works by delivering trillions of dollars to retiring American workers. However, since its enactment in 1974, ERISA has become more and more complex, and the administrative costs of maintaining a pension plan has risen substantially.

The bill will authorize the Commission (six members appointed by the President, six by the Speaker of the House, and six by the Senate Majority Leader) to review existing Federal incentives and programs that encourage and protect private retirement savings and set forth recommendations where appropriate for increasing the level and security of private retirement savings.

Sec. 516. Date for Adoption of Plan Amendments

The bill provides that any plan amendment required by the bill are not required to be made before the first plan year beginning on or after January 1, 1997, if the plan is operated in accordance with the applicable provision and the amendment is retroactive to the effective date of the applicable provision. In the case of state and local governmental plans, plan requirements are required to be made on the first plan year beginning on or after January 1, 1999.

By Mr. INOUYE:

S. 1008. A bill to amend title 10, United States Code, to provide for appointments to the military service academies by the Resident Representative to the United States for the Commonwealth of the Northern Mariana Islands; to the Committee on Armed Services.

TITLE 10 AMENDMENT LEGISLATION

• Mr. INOUYE. Mr. President, today I am introducing a bill to amend title 10, United States Code, to provide for appointments to the military service academies by the Resident Representative for the Commonwealth of the Northern Mariana Islands. I think it is important that students from the Commonwealth of the Northern Mariana Islands have an opportunity to be trained at our military academies and serve in our Armed Forces. This bill would enable that to occur. I ask unanimous consent that the text of the bill appear in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1008

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Appointments to military service academies by the resident representative to the United States for the commonwealth of the northern mariana islands.

(a) UNITED STATES MILITARY ACADEMY.—

(1) APPOINTMENT AUTHORITY.—Subsection (a) of section 4342 of title 10, United States Code, is amended by striking out the sentence following the clauses of such subsection and inserting in lieu thereof the following:

''(10) One cadet from the Commonwealth of the Northern Mariana Islands, nominated by the Resident Representative to the United States for the Commonwealth of the Northern Mariana Islands.

Each person specified in clauses (3) through (10) who is entitled to nominate a candidate for admission to the Academy may nominate a principal candidate and nine alternates for each vacancy that is available to the person under this subsection.''.

(2) DOMICILE OF CADETS.—Subsection (f) of such section is amended to read as follows:

''(f) Each candidate for admission nominated under clauses (3) through (10) of subsection (a) must be domiciled—

''(1) in the State, or in the congressional district, from which the candidate is nominated; or

''(2) in the District of Columbia, Puerto Rico, American Samoa, Guam, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands, if the candidate is nominated from one of those places.''.

(3) CONFORMING AMENDMENTS.—(A) Subsection (d) of such section is amended by striking out ''(9)'' and inserting in lieu thereof ''(10)''.

(B) Section 4343 of such title is amended by striking out ''(8) of section 4342(a)'' in the second sentence and inserting in lieu thereof ''(10) of section 4342(a)''.

(b) UNITED STATES NAVAL ACADEMY.—

(1) APPOINTMENT AUTHORITY.—Subsection (a) of section 6954 of title 10, United States Code, is amended by striking out the sentence following the clauses of such subsection and inserting in lieu thereof the following:

''(10) One from the Commonwealth of the Northern Mariana Islands, nominated by the Resident Representative to the United States for the Commonwealth of the Northern Mariana Islands.

Each person specified in clauses (3) through (10) who is entitled to nominate a candidate for admission to the Academy may nominate a principal candidate and nine alternates for each vacancy that is available to the person under this subsection.''.

(2) DOMICILE OF MIDSHIPMEN.—Subsection (b) of section 6958 of such title is amended to read as follows:

''(b) Each candidate for admission nominated under clauses (3) through (10) of section 6954(a) of this title must be domiciled—

''(1) in the State, or in the congressional district, from which the candidate is nominated; or

''(2) in the District of Columbia, Puerto Rico, American Samoa, Guam, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands, if the candidate is nominated from one of those places.''.

(3) CONFORMING AMENDMENT.—(A) Section 6954(d) of such title is amended by striking out ''(9)'' and inserting in lieu thereof ''(10)''.

(B) Section 6956(b) of such title is amended by striking out ''(8) of section 6954(a)'' in the second sentence and inserting in lieu thereof ''(10) of section 6954(a)''.

(c) UNITED STATES AIR FORCE ACADEMY.—

(1) APPOINTMENT AUTHORITY.—Subsection (a) of section 9342 of title 10, United States Code, is amended by striking out the sentence following the clauses of such subsection and inserting in lieu thereof the following:

''(10) One cadet from the Commonwealth of the Northern Mariana Islands, nominated by the Resident Representative to the United States for the Commonwealth of the Northern Mariana Islands.

Each person specified in clauses (3) through (10) who is entitled to nominate a candidate for admission to the Academy may nominate a principal candidate and nine alternates for each vacancy that is available to the person under this subsection.''.

(2) DOMICILE OF CADETS.—Subsection (f) of such section is amended to read as follows:

''(f) Each candidate for admission nominated under clauses (3) through (10) of subsection (a) must be domiciled—

''(1) in the State, or in the congressional district, from which the candidate is nominated; or

''(2) in the District of Columbia, Puerto Rico, American Samoa, Guam, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands, if the candidate is nominated from one of those places.''.

(3) CONFORMING AMENDMENTS.—(A) Subsection (d) of such section is amended by striking out ''(9)'' and inserting in lieu thereof ''(10)''.

(B) Section 9343 of such title is amended by striking out ''(8) of section 9342(a)'' in the second sentence and inserting in lieu thereof ''(10) of section 9342(a)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the nomination of candidates for appointment to the United States Military Academy, the United States Naval Academy, and the United States Air Force Academy for classes entering the academies after the date of the enactment of this Act.•

By Mr. D'AMATO:

S. 1009. A bill to prohibit the fraudulent production, sale, transportation, or possession of fictitious items purporting to be valid financial instruments of the United States, foreign governments, States, political subdivisions, or private organizations, to increase the penalties for counterfeiting violations, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE FINANCIAL INSTRUMENTS ANTI-FRAUD ACT OF 1995

• Mr. D'AMATO. Mr. President, I am today introducing the Financial Instruments Anti-Fraud Act of 1995.

This legislation combats the use of factitious financial instruments to defraud individual investors, banks, pension funds, and charities. These fictitious instruments have been called many names, including prime bank notes, prime bank derivatives, prime bank guarantees, Japanese yen bonds, Indonesian promissory notes, U.S. Treasury warrants, and U.S. dollar notes. Fictitious financial instruments have caused hundreds of millions of dollars in losses.

Mr. President, these frauds have been perpetrated by antigovernment groups such as the Posse Comitatus and ''We the People,'' which use fictitious financial instruments to fund their violent activities. In the wake of the terrible tragedy in Oklahoma City, I hope my colleagues will support legislation that will cut the purse strings of these organizations.

Because these fictitious instruments are not counterfeits of any existing negotiable instrument, Federal prosecutors have determined that the manufacture, possession, or utterance of these instruments does not violate the counterfeit or bank fraud provisions contained in chapters 25 and 65 of title 18 of the United States Code. The perpetrators of these frauds can be prosecuted under existing Federal law only

if they used the mails or wires, or violated the bank fraud statute.

Mr. President, we have worked closely with the Treasury Department and various U.S. Attorneys' Offices to prepare the Financial Instruments Anti-Fraud Act of 1995. This bill makes it a violation of Federal law to possess, pass, utter, publish, or sell, with intent to defraud, any items purporting to be negotiable instruments of the U.S. Government, a foreign government, a State entity, or a private entity. It closes a loophole in Federal counterfeiting law.

Fictitious financial instruments are typically produced in very large denominations and purport to offer very high rates of return. Promoters of these schemes claim that they have exclusive access to secret wholesale markets paying 25 percent or more to investors. The June 13, 1994, issue of Business Week reported that innocent investors, including the National Council of Churches and Salvation Army, lost hundreds of millions of dollars in a scam involving bogus guarantees issued by the Czech Republic's Banka Bohemia.

Mr. President, organized terrorist and militia groups are distributing do-it-yourself kits that provide the materials and instructions for members of such organizations to produce phony money order and securities. These antisocial groups seek to undermine the soundness of the U.S. financial system, and to raise funds to advance their violent, radical agenda. They claim, for example, that the IRS is a tool of Zionist international bankers and advocate violent confrontation with Federal law enforcement agents.

Drug traffickers also rely on fictitious financial investment instruments. Some West African organized criminal syndicates, for instance, use these instruments to fund their thriving heroin trade.

In addition to combating the use of fictitious financial investment instruments, this legislation correct a technical error that occurred when the Congress enacted the Counterfeit Deterrence Act of 1992. Congress intended this bill to increase penalties for counterfeit violations. As a result of a drafting error, however, the 1992 legislation actually lowered criminal penalties for counterfeiting.

This bill imposes criminal penalties for the production and sale of fictitious instruments. These penalties are identical to those imposed for counterfeiting. Criminals found guilty under these sections will fact up to 25 years in prison.

Mr. President, I strongly urge passage of the Financial Instruments Anti-Fraud Act of 1995.●

By Mr. STEVENS (for himself and Mr. MURKOWSKI):

S. 1010. A bill to amend the ''unit of general local government'' definition for Federal payments in lieu of taxes to include unorganized boroughs in Alaska and for other purposes; to the Committee on Labor and Human Resources.

PILT LEGISLATION

● Mr. STEVENS. Mr. President, Alaska shoulders more than its fair share of the Federal lands. Federal lands are costly to State and local governments, which cannot impose a property tax on the Federal Government. Also, we are not able to develop the Federal lands to produce jobs and strengthen our economy.

The Payments In Lieu of Taxes [PILT] program provides Federal funds to local governments which have tax-exempt Federal lands within their boundaries. PILT funding is designed to relieve the fiscal burden on local governments which Federal lands impose by severely reducing the property tax base. Under the act directing PILT payments, the Secretary of the Interior makes annual payments to each unit of general local government within which Federal lands are located.

Despite Alaska's stature as the largest State in the Union and despite the millions of Federal acres in Alaska, Alaska is currently only the 10th highest PILT recipient. This is because the definition of ''unit of general local government'' includes only organized boroughs and certain independent cities in Alaska. Yet over 60 percent of Alaska and 60 percent of the Federal lands are located outside of any organized borough.

I cannot over-emphasize this point. Only 40 percent of the Federal lands in Alaska are located in organized boroughs. Over half of the Federal lands in Alaska, 60 percent, are not currently considered in determining PILT payments to Alaska. Therefore, hundreds of poor rural Alaskan communities which are surrounded by Federal lands, but which are outside of organized boroughs, receive no PILT payments. Most of these villages lack adequate sewer and water systems and do not have health facilities within 200 or 300 miles.

Last year, I introduced a bill to include Federal lands which are not within organized boroughs or independent cities. That legislation, which the Senate passed, would have accomplished this by correcting an inequity in the present definition of ''unit of general local government'' for the purpose of determining PILT payments to include unorganized boroughs. Today, I am introducing a similar bill.

This bill will resolve a great injustice. The villages in Alaska that are surrounded by tax-exempt Federal lands should be compensated for loss of property tax revenues and for the inability to use the lands for any development. The increase in Alaskan PILT payments will directly benefit villages which are in desperate need of resources to sustain basic necessities for their remote existence.

Currently, the local governments in Alaska receive about $4.5 million a year from PILT. Under this legislation, the funds the State and villages receive would increase by about $2.5 million under the corrected PILT program. $2.5 million a year will only begin to improve the living conditions in the villages—but it will help. And it is much-needed.

This bill will not increase the current entitlement ceiling of PILT. It will only change the way the PILT fund is divided. It will provide a small additional share of the PILT fund distribution to those Alaskan communities that are outside organized boroughs.

This legislation also will not reduce other States' PILT funding by very much because PILT calculations include population statistics. Therefore, Alaska will never receive as much as some of the Western States with high populations and relatively high Federal acreage.

It is a matter of fairness—60 percent of the Federal lands in Alaska are not included under current PILT calculations. Alaska is the only State not fully compensated for all of its Federal lands. Even the territories and the District of Columbia are fully compensated.

I would appreciate the support of the other Senators to see that Alaska finally receives PILT funds for all of the Federal lands in the State—not just 40 percent of them.●

By Mr. CRAIG (for himself, Mr. HEFLIN, Mr. LUGAR, and Mr. LEAHY):

S. 1011. A bill to help reduce the cost of credit to farmers by providing relief from antiquated and unnecessary regulatory burdens for the Farm Credit System, and for other purposes.

THE FARM CREDIT SYSTEM REGULATORY RELIEF ACT

Mr. CRAIG. Mr. President, I am here today to introduce the Farm Credit System Regulatory Relief Act of 1995. I am pleased that my colleague, Senator HEFLIN along with the chairman and ranking member of the Agriculture Committee, Senators LUGAR and LEAHY, join me as original cosponsors of this important legislation.

The Farm Credit System Regulatory Relief Act of 1995 will provide for the elimination, consistent with safety and soundness requirements, of all regulations that are unnecessary, unduly burdensome or costly, or not based on statute.

The Farm Credit System supplies about 25 percent of the credit provided to American producers and more than 80 percent of the credit provided to agricultural cooperatives. The cost of this credit is increased by unnecessary regulations. The increasingly competitive global market combined with the decreasing role of the Federal Government in agricultural support programs necessitates that farmers and ranchers have continued access to competitive sources of financial capital.

There are 8 Farm Credit System banks and approximately 230 locally owned farm credit associations located across all 50 of the United States. If the Farm Credit System is to remain the

viable financial partner for American agriculture that it is, then the time is now to make these significant revisions. Mr. President, I would also emphasize for the record that this piece of legislation is simply and solely regulatory relief, it does not provide the Farm Credit System with any additional or expanded lending authorities.

The changes, as I have outlined in the attached section-by-section summary, are an important step toward ensuring that our American farmers will be able to obtain competitive loan rates and better service from the Farm Credit System.

Mr. President, I ask unanimous consent that the section-by-section analysis of this bill along with a letter from the Farm Credit Administration be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE FARM CREDIT SYSTEM REGULATORY RELIEF ACT OF 1995—SECTION-BY-SECTION ANALYSIS

Section 1: Short title; table of contents: The short title is the ''Farm Credit System Regulatory Relief Act of 1995.''

Section 2: References to the Farm Credit Act of 1971: As used in this bill, all references, unless otherwise noted, are references to the ''Farm Credit Act of 1971.''

Section 3: Regulatory Review: This section describes the findings of Congress regarding recent efforts by the Farm Credit Administration (FCA) to reduce regulatory burden on Farm Credit System institutions. This section also directs FCA to continue its efforts to eliminate, consistent with safety and soundness, all regulations that are unnecessary, unduly burdensome or costly, or not based on statute.

Section 4: Examination of Farm Credit System Institutions: Under current law, the Farm Credit Administration has the authority to examine System direct lender institutions whenever and as often as the agency chooses, but not less than once every year. This section would grant the FCA flexibility to extend the length of time between mandatory examinations to 18 months. This section would not apply to Federal Land Bank Associations, which under current law are only mandated for examination every three years.

Nothing in this section would affect FCA's ability to examine any System institution at any time the regulator deems necessary. Likewise, this section would not affect the specific technical requirements of FCA's examinations or the Agency's enforcement authorities.

This section is designed to reduce examination costs for well-captialized System institutions while fully preserving FCA's existing safety and soundness oversight authorities.

Section 5; Farm Credit Insurance Fund Operations. This section would authorize the Farm Credit System Insurance Corporation (FCSIC) to allocate to System banks excess interest earnings generated by the Farm Credit Insurance Fund once the Fund reaches the secure base amount. At the same time, until the excess interest earnings are rebated to system banks, which would not begin until five years after the secure base amount is reached, any uses of the Fund would could first from the allocated earnings held in the Fund. Only after such allocated amounts were exhausted would funds from the secure base amount be used.

Current law requires the FCSIC to assess premiums until such time as the aggregate amount in the Farm Credit Insurance Fund (The Fund) equals the secure base amount. The secure base amount is defined as an amount equal to 2 percent of the insured liabilities of the Farm Credit System, or such other amount determined by FCSIC to be actuarially sound. Once the secure base is reached (expected in early 1997), premiums can be suspended. However, FSCIC does not have the authority to address the excess interest earnings that will continue to build above the secure base amount.

This section would allow the eventual rebate of this excess interest to those institutions that have paid insurance premiums based on a three-year running average of their accruing loan volume. This section would also authorize, but not require, FCSIC to reduce insurance premiums as the Insurance Fund approaches the 2 percent secure base amount.

Section 6: Powers with Respect to Troubled Insured System Banks: This section would require FCSIC to implement the least costly of all alternatives available to it, including an assisted merger, as it considers options for providing assistance to a troubled System institution. It would also make clear that the directorship and management of an assisted institution serves at the discretion of and is subject to the approval of FCSIC. Current law permits FCSIC to provide ''open-bank'' assistance to a troubled System institution if such assistance is merely less costly than liquidation, and also permits FCSIC to ignore this least-cost restriction altogether in certain limited circumstances. Current law also permits FCSIC to provide financial support to a troubled institution without any requirement that the operations or management of that institution be materially changed. Failure to amend current authorities could lead to open-ended cost to the Farm Credit Insurance fund, and potentially result in additional costs to other, healthy FCS institutions.

Section 7: Farm Credit System Insurance Corporation Board of Directors: This section would retain the current structure of the FCSIC Board by removing provisions of current law requiring a new FCSIC Board structure. Currently, the FCSIC board is comprised of the three board members of the Farm Credit Administration. The Chairman of FCSIC is elected by the board and must be someone other than the FCA chairman. Effective January 1, 1996, current law requires the establishment of a new, full-time presidentially-appointed, three-person board completely separate and independent from the FCA board. This section would remove the provision in current law and would result in the retention of the FCA board as the FCSIC board.

Section 8: Conservatorships and Receiverships: This section makes a conforming change to clarify that FCSIC can act in the capacity of a receiver or conservator of a System institution.

Section 9: Examinations by the Farm Credit System Insurance Corporation: This section provides that once the Farm Credit Administration cancels the charter of a System institution that is in receivership, FCSIC shall have exclusive authority to examine the institution.

Section 10: Oversight and Regulatory Actions by the Farm Credit System Insurance Corporation: This section provides that the Farm Credit Administration shall consult with FCSIC before approving any debt issuances by a System bank that fails to meet the minimum capital levels set by FCA. This section also provides for consultation with FCSIC before the Farm Credit Administration approves a proposed merger or restructuring of a System bank or large association that does not meet FCA's minimum capital levels. Finally, the section grants FCSIC similar authority to that of the FDIC to prohibit any golden parachute payment of indemnification payment by a System institution that is in a troubled condition.

Section 11: Formation of Administrative Service Entities: This section would allow Farm Credit System associations to establish administrative service entities. These entities would not be permitted to perform activities or carry out functions not currently authorized by statute. Under current law, Farm Credit System banks can form such entities under Section 4.25 of the Farm Credit Act. This section would extend that authority to FCS associations, although an entity organized under this section would have no authority either to extend credit or provide insurance services to Farm Credit System borrowers, nor would it have any greater authority with respect to functions and services than the organizing assocaiton or associations possess under the Farm Credit Act.

Section 12: Requirements for Loans Sold into the Secondary Market: This section would make inapplicable the borrower rights requirements of current law, and allow System banks and associations to change their bylaws to make inapplicable the borrower stock requirements of current law, for any loan specifically originated for sale into the secondary market. Under current law, Farm Credit borrowers are required to buy and maintain stock or participation certificates in the System institution which originated their loan, even when the loan was originated with the express intent of selling it into the secondary market.

In addition, System loans to farmers are covered by the borrower rights provisions of the Agricultural Credit Act of 1987. This section would allow System institutions to waive these requirements for loans that are originated for sale into the secondary market. If loans designated for sale into the secondary market are not sold within one year, the relevant borrower stock and borrower rights requirements would again apply.

The borrower stock provisions of this section would apply whether or not the bank or association retains a subordinated participation interest in a loan or pool of loans or contributes to a cash reserve pursuant to title VIII of the Farm Credit Act.

Section 13: Removal of Antiquated and Unnecessary Paperwork Requirements:

Compensation of Association Personnel: This section would remove the requirement in current law that Farm Credit System banks approve the appointment and compensation of association CEOs.

Use of Private Mortgage Insurance: This section would allow a rural home loan borrower to obtain financing in excess of 85 percent of the value of the real estate collateral pledged, provided the borrower obtains private mortgage insurance for the amount in excess of 85 percent. Under current statute, Farm Credit System institutions can only lend up to 85 percent of the value of the real estate security unless federal, state, or government agency guarantees are obtained.

Removal of Certain Borrower Reporting Requirements: This section would repeal the provision of current law which requires all long-term mortgage borrowers to provide updated financial statements every three years, regardless of the status of the borrower's loan.

Disclosure Relating to Adjustable Rate Loans: For loans not subject to the Truth-In-Lending Act, current regulation requires Farm Credit System institutions to notify a borrower of any increase in the interest rate applicable to the borrower's loan at least 10 -

days in advance of the effective date of the change. For adjustable rate loans that are based on an underlying index (such as prime), this requirement is impossible to fulfill.

This section would permit notice of a change in the borrower's interest rate to be given within a reasonable time after the effective date of an increase or decrease.

Joint Management Agreements: This section would remove the requirement in current law that both stockholders and the Farm Credit Administration approve joint management agreements, thereby leaving such decisions to the discretion of the boards of directors of the institutions involved.

Dissemination of Quarterly Reports: This section would require that regulations issued by the Farm Credit Administration governing the dissemination of quarterly reports to shareholders be no more burdensome or costly than regulations issued by other financial regulators governing similar disclosures by national banks.

Section 14: Removal of Federal Government Certification Requirement for Certain Private Sector Financings: This section would remove government certification procedures for certain Banks for Cooperatives' lending activities without changing eligibility requirements in current statute. Under current law, eligibility for FCS bank for cooperative rural utility lending is based on the eligibility requirements in the Rural Electrification Act. Current statute requires the administrator of the Rural Electrification Administration (REA) to certify that rural utility companies are eligible for REA financing in order for those systems to obtain private sector financing from the Banks for Cooperatives. This section would remove the certification requirement without changing the underlying eligibility criteria in the statute.

Section 15: Reform of Regulatory Limitations on Dividend, Member Business, and Voting Practices of Eligible Farmer-Owned Cooperatives: This section would allow greater flexibility for evolving cooperative structure issues such as dividend, member business, and voting practices. Under current law, farmer-owned cooperatives are required to maintain rigid operating procedures in order to maintain their eligibility for FCS Bank for Cooperatives financing. This section would allow existing borrowers to adapt their operations, while retaining their farmer-owned nature, and thereby maintain their continued eligibility to borrow from the Banks for Cooperatives. This section would not expand Banks for Cooperatives eligibility to cooperatives that do not meet the eligibility criteria in current law.

FARM CREDIT ADMINISTRATION,
McLean, VA, June 29, 1995.

Hon. LARRY E. CRAIG,
Chairman, Forestry, Conservation, and Rural Revitalization Subcommittee.
Committee on Agriculture, Nutrition and Forestry,
U.S. Senate, Washington, DC.

Dear Mr. Chairman: In response to your request, the Farm Credit Administration provides its views on the proposed Farm Credit System Regulatory Relief Act of 1995 (Relief Act). Relieving regulatory burden has been a strategic goal of the FCA's since 1994, and we have accomplished a great deal in this area. We are, nevertheless, supportive of legislative efforts to relieve burdens we lack the power to remove, provided safety and soundness are not compromised.

We do not believe it is necessary for the Congress to direct FCA to continue its efforts to eliminate regulations that are unnecessary, unduly burdensome or costly or not based on statute. The FCA has been actively involved in an effort to streamline its regulatory burden and is committed to continuing that process. The FCA Board recently reaffirmed the existing policy to regulate only as necessary to implement or interpret the statute or as required by safety and soundness and to conduct a periodic review of regulations with a view to eliminating unnecessary burden.

While we understand the position the System has taken with respect to the statutory provision for financial statements, we do believe that timely financial information on large loans with annual or infrequent payment schedules is required for safe and sound business decisions and planning. Should the statutory provision be eliminated, we would continue to address this issue by regulation as necessary for safety and soundness. It should also be noted that the current FCA regulation (12 CFR 614.4200(c)) exempts loans with regular and frequently scheduled payments such as rural housing or other similarly amortized consumer-type loans.

With respect to the provisions dealing with information provided to stockholders, FCA regulations require that borrowers receive a 10-day advance notice of the increase in rates on an adjustable rate loan, whether the rate is an administered rate or is tied to an index that is available to the general public and not under the lender's control. The Relief Act proposes to delete this requirement and provide for a post increase notice within a reasonable time. The FCA Board has expressed interest in relaxing the regulatory requirement and would support notification to the borrower within 10 days after the increase or decrease.

The Relief Act provisions would relieve an association of any obligation to provide stockholders with a quarterly financial report. The quarterly report, together with the annual report, serves a dual purpose. The reports provide shareholders with current information on the performance of their investment and the management of the association they own. In addition, they serve as the basis for disclosure to prospective shareholders. FCA regulations currently require that quarterly reports be sent to stockholders or published in a widely available publication. The FCA currently is considering a request from a number of System institutions to permit these reports be made available only when stockholders request them. The Relief Act would relieve System institutions of the obligation to provide a quarterly report even if requested. We think shareholders need to have access to recent financial information about the institution they own.

With respect to the provision related to the Farm Credit System Insurance Corporation Board structure, we believe that it would result in significant savigns and that addressign this issue as proposed in the Relief Act would be consistent with the current emphasis on streamlining government.

We thank you for the opportunity to comment. If we can be of further assistance, please let us know.

Sincerely,

MARSHA MARTIN,
Chairman.
DOYLE L. COOK,
Board Member.

Mr. HEFLIN. Mr. President, I rise in strong support of, and am proud to lend my cosponsorship to, the Farm Credit System Regulatory Relief Act of 1995.

The Farm Credit System has played a central role in providing capital to farming families for decades. However, as we face an evolving business world, modifications are necessary for Farm Credit to remain a viable financial partner for American agriculture.

The availability of credit is of vital importance to rural economies. The Farm Credit System Regulatory Relief Act addresses the need for adequate and reliable credit by providing for the removal of unnecessary and burdensome regulation which will facilitate the flow of required capital.

The Farm Credit Regulatory Relief Act grants the Farm Credit Administration the flexibility to extend the length of time between mandatory examinations to 18 months. The Farm Credit Administration has the authority to examine system-direct lending institutions whenever and as often as the agency chooses. This improvement only changes the mandatory period between examinations. This change will reduce the isntitutions' examination costs and the savings will be passed back to rural borrowers through lwoer loan rates, thereby making capital more easily attainable where it is most needed.

In addition to reducing costs, the Regulatory Relief Act will also allow the Farm Credit System to better serve local communities by creating administrative service entities. Current law allows Farm Credit banks to establish such service entities. This act would extend existing authority to Farm Credit System associations which serve the rural communities. I fully support this change and believe that it is long overdue.

Through the removal of outdated and burdensome regulations, the Farm Credit System will be able to better serve farming families and rural communities wshile promoting cost savings to agriculture by providing farmers with competitive loan rates. For these reasons, I strongly support the Farm Credit Regulatory Relief Act of 1995.

By Mr. D'AMATO (for himself and Mr. MOYNIHAN):

S. 1012. A bill to extend the time for construction of certain FERC licensed hydro projects; to the Committee on Energy and Natural Resources.

HYDROELECTRIC POWER LICENSE EXTENSION

• Mr. D'AMATO. Mr. President, I rise today to introduce legislation with my friend and colleague, Senator MOYNIHAN, that will keep two hydroelectric projects in upstate New York on track. Our legislation will extend the time limitations on two Federal Energy Regulatory Commission [FERC] licensed hydroelectric projects located on two existing dam sites on the Hudson River—the Northumberland project and the Waterford project.

The Northumberland Hydroelectric project, when completed, will generate 48 million kilowatt hours of electricity while the Waterford Hydroelectric project will produce 42 million kilowatt hours. The development of these two dams will provide a clean alternative energy source. In addition, the construction and operation of these projects will provide jobs for this upstate region of New York.

As many of my colleagues who are familiar with similar projects know, the Federal Power Act sets a time limit for the beginning of construction on a hydropower project once FERC has issued a license. Once a license is issued, construction must occur 2 years from the licensing date unless FERC extends the initial two year deadline. The Federal Power Act allows only one extension for up to 2 years. Failure to commerce construction within the time allotted opens the license to termination. In the case of these two projects, FERC has already extended the deadline—the Northumberland deadline is January 16, 1996, while the Waterford deadline is June 7, 1997.

The bill that we are introducing today is identical to legislation introduced in the House by Representatives SOLOMON and MCNULTY. Both bills give FERC the authority to extend the construction deadline for each project for up to a total of 6 years. The current licensees for these projects are moving steadily toward development, however, they recognize that they may not be able to achieve their goals within the prescribed deadlines. By enacting this legislation, the extra time necessary to realize the potential of these projects will be granted.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1012

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION.

Notwithstanding the limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee or licensees for FERC projects numbered 4244 and 10648 (and after reasonable notice), is authorized in accordance with the good faith, due diligence, and public interest requirements of such section 13 and the Commission's procedures under such section, to extend the time required for commencement of construction for each of such projects for up to a maximum of 3 consecutive 2-year periods. This section shall take effect for the projects upon the expiration of the extension (issued by the Commission under such section 13) of the period required for commencement of construction of each such project.●

By Mr. NICKLES:

S. 1014. A bill to improve the management of royalties from Federal and Outer Continental Shelf oil and gas leases, and for other purposes; to the Committee on Energy and Natural Resources.

THE ROYALTY FAIRNESS ACT OF 1995

Mr. NICKLES. Mr. President, over time, serious problems have developed with the ways courts and consequently the Minerals Management Service [MMS] have interpreted the Federal statute of limitations governing royalty collection. Basically the issue is: At what time does the statute of limitations begin to run on the underpayment of royalties?

Some courts claim that the statute of limitations does not begin to run until the MMS ''should have known about the deficiency'' in the amount the producer has paid *[Mesa* v. *U.S.* (10th Cir. 1994)]. Other courts have held that the current six year statute ''is tolled until such time as the government could reasonably have known about a fact material to its right of action.'' [*Phillips* v. *Lujan* (10th Cir. 1993)].

Either of the above interpretations subject producers to unlimited liability—a period that well exceeds the statute of limitations on other agency actions regarding procedures. This situation has created a climate of deep uncertainty in the payment of royalties that was not intended by Congress and that is not in the best interests of consumers, producers, or ultimately the U.S. Government.

Oil and gas producers pay billions of dollars every year for the opportunity to drill on Federal land. The payment of royalties is a routine part of doing business with the federal government. Their is no attempt here to alter that obligation to pay.

However, like all other businesses, oil and gas producers need certainty in their business relationships and in their business transactions with the Federal Government. That certainty is not now present in the MMS's regulations or in numerous court decisions interpreting the applicable statute of limitations. Certainty can be achieved only through legislation. For that reason, I am introducing today the Royalty Fairness Act of 1995.

The main objective of this legislation is to identify the time when the statute of limitations begins to run on royalty payments. In most cases, it will be when the obligation to pay the royalty begins. That will occur, in most instances, at the time of an underpayment of the royalty payment to the MMS.

Let me summarize the effects and provisions of this bill:

The bill establishes a 6-year statute of limitations for auditing royalty activities and correcting errors, defined to commence the month following the month of production.

The bill also addresses the refund period for overpayments on OCS drilling. Currently, there is a 2-year period to file for an overpayment on offshore leases. Experience has shown that this period is too short and that, as a result, producers can lose legitimate refunds. To correct this problem, the bill extends the refund period from 2 to 3 years. This section also provides for routine crediting or offsetting of overpayments against payments currently due—something that is not permitted now for royalty payments but would increase the efficiencies of collection.

An amendment to the Federal Oil and Gas Royalty Management Act of 1982 [FOGRMA] is included to similarly shorten the time frame for producers to keep records. There is simply no need to keep records beyond the proposed 6-year statute of limitations.

Interest reciprocity is established, but requires offsetting by both the lessee and the Secretary. This offsetting procedure applies to all overpayments and underpayments at the lessee level for all federal leases of the same category prior to determining the ''net'' overpayment or underpayment which is subject to interest.

The Act allows the Secretary to waive interest. Currently, the law is interpreted to require the collection of interest in all cases. That interpretation has made it difficult to resolve payment issues or settle disputed claims. Thus, this section is intended to facilitate the settlement of payments and disputes.

Furthermore, the Act provides an inducement for MMS to resolve administrative proceedings in a diligent timeframe (3 years). There is currently no such inducement; in fact, the MMS in many instances tolls its decisions indefinitely.

This bill provides for the imposition of civil or criminal penalties upon a showing of willful misconduct or gross negligence. Currently penalties or assessments are imposed without notice or an opportunity to be heard. This section provides for due process.

No section of this bill allows for reduced royalties either before or after production is commenced.

It does, however, eliminate the need to give formal notice before seeking enforcement of the Outer Continental Shelf Leasing Act [OCSLA].

These are the major provisions of the Act. It covers leases administered by the Secretary of the Interior on Federal lands and the Outer Continental Shelf but specifically excludes Indian lands.

The MMS has made a number of attempts to correct these problems, and currently it has several information policies that parallel many of the provisions in this bill. However, there will be no permanent solution until Congress enacts legislation. The bill has strong support among oil and gas producers. I am confident that creating a climate of certainty in the oil and gas industry and getting rid of some inconsistencies in current regulation is very much in the national economic interest.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1014

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Federal Oil and Gas Royalty Simplification and Fairness Act of 1995''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. DEFINITIONS.

Section 3 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) is amended as follows:

(1) In paragraph (5), by inserting ''(including any unit agreement and communitization agreement)'' after ''agreement''.

(2) By amending paragraph (7) to read as follows:

''(7) 'lessee' means any person to whom the United States issues a lease.''.

(3) By striking ''and'' at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting a semicolon, and by adding at the end the following:

''(17) 'administrative proceeding' means any agency process for rulemaking, adjudication or licensing, as defined in and governed by chapter 5 of title 5, United States Code (relating to administrative procedures);

''(18) 'assessment' means any fee or charge levied or imposed by the Secretary or the United States other than—

''(A) the principal amount of any royalty, minimum royalty, rental, bonus, net profit share or proceed of sale;

''(B) any interest; and

''(C) any civil or criminal penalty;

''(19) 'commence' means—

''(A) with respect to a judicial proceeding, the service of a complaint, petition, counterclaim, cross-claim, or other pleading seeking affirmative relief or seeking offset or recoupment;

''(B) with respect to an administrative proceeding—

''(i) the receipt by a lessee of an order to pay issued by the Secretary; or

''(ii) the receipt by the Secretary of a written request or demand by a lessee, or any person acting on behalf of a lessee which asserts an obligation due the lessee;

''(20) 'credit' means the method by which an overpayment is utilized to discharge, cancel, reduce or offset an obligation in whole or in part;

''(21) 'obligation' means a duty of the Secretary, the United States, or a lessee—

''(A) to deliver or take oil or gas in kind; or

''(B) to pay, refund, credit or offset monies, including (but not limited to) a duty to calculate, determine, report, pay, refund, credit or offset—

''(i) the principal amount of any royalty, minimum royalty, rental, bonus, net profit share or proceed of sale;

''(ii) any interest;

''(iii) any penalty; or

''(iv) any assessment,

which arises from or relates to any lease administered by the Secretary for, or any mineral leasing law related to, the exploration, production and development of oil or gas on Federal lands or the Outer Continental Shelf;

''(22) 'offset' means the act of applying an overpayment (in whole or in part) against an obligation which has become due to discharge, cancel or reduce the obligation;

''(23) 'order to pay' means a written order issued by the Secretary or the United States which—

''(A) asserts a definite and quantified obligation due the Secretary or the United States; and

''(B) specifically identifies the obligation by lease, production month and amount of such obligation ordered to be paid, as well as the reason or reasons such obligation is claimed to be due,

but such term does not include any other communication by or on behalf of the Secretary or the United States;

''(24) 'overpayment' means any payment (including any estimated royalty payment) by a lessee or by any person acting on behalf of a lessee in excess of an amount legally required to be paid on an obligation;

''(25) 'payment' means satisfaction, in whole or in part, of an obligation due the Secretary or the United States;

''(26) 'penalty' means a statutorily authorized civil fine levied or imposed by the Secretary or the United States for a violation of this Act, a mineral leasing law, or a term or provision of a lease administered by the Secretary;

''(27) 'refund' means the return of an overpayment by the Secretary or the United States by the drawing of funds from the United States Treasury;

''(28) 'underpayment' means any payment by a lessee or person acting on behalf of a lessee that is less than the amount legally required to be paid on an obligation; and

''(29) 'United States' means—

''(A) the United States Government and any department, agency, or instrumentality thereof; and

''(B) when such term is used in a geographic sense, includes the several States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.''.

SEC. 3. LIMITATION PERIODS.

(a) IN GENERAL.—The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) is amended by adding after section 114 the following new section:

''SEC. 115. LIMITATION PERIODS.

''(a) IN GENERAL.—

''(1) SIX-YEAR PERIOD.—A judicial or administrative proceeding which arises from, or relates to, an obligation may not be commenced unless such proceeding is commenced within 6 years from the date on which such obligation becomes due.

''(2) LIMIT ON TOLLING OF LIMITATION PERIOD.—The running of the limitation period under paragraph (1) shall not be suspended or tolled by any action of the United States or an officer or agency thereof other than the commencement of a judicial or administrative proceeding under paragraph (1) or an agreement under paragraph (3).

''(3) FRAUD OR CONCEALMENT.—For the purpose of computing the limitation period under paragraph (1), there shall be excluded therefrom any period during which there has been fraud or concealment by a lessee in an attempt to defeat or evade payment of any such obligation.

''(4) REASONABLE PERIOD FOR PROVIDING INFORMATION.—In seeking information on which to base an order to pay, the Secretary shall afford the lessee or person acting on behalf of the lessee a reasonable period in which to provide such information before the end of the period under paragraph (1).

''(b) FINAL AGENCY ACTION.—The Director of the Minerals Management Service shall issue a final Director's decision in any administrative proceeding before the Director within one year from the date such proceeding was commenced. The Secretary shall issue a final agency decision in any administrative proceeding within 3 years from the date such proceeding was commenced. If no such decision has been issued by the Director or Secretary within the prescribed time periods referred to above:

''(1) the Director's or Secretary's decision, as the case may be, shall be deemed issued and granted in favor of the lessee or lessees as to any nonmonetary obligation and any obligation the principal amount of which is less than $2,500; and

''(2) in the case of a monetary obligation the principal amount of which is $2,500 or more, the Director's or Secretary's decision, as the case may be, shall be deemed issued and final, and the lessee shall have a right of de novo judicial review and appeal of such final agency action.

''(c) TOLLING BY AGREEMENT.—Prior to the expiration of any period of limitation under subsections (a) or (c), the Secretary and a lessee may consent in writing to extend such period as it relates to any obligation under the mineral leasing laws. The period so agreed upon may be extended by subsequent agreement or agreements in writing made before the expiration of the period previously agreed upon.–

''(d) LIMITATION ON CERTAIN ACTIONS BY THE UNITED STATES.—When an action on or enforcement of an obligation under the mineral leasing laws is barred under subsection (a) or (b), the United States or an officer or agency thereof may not take any other or further action regarding that obligation including (but not limited to) the issuance of any order, request, demand or other communication seeking any document, accounting, determination, calculation, recalculation, principal, interest, assessment, penalty or the initiation, pursuit or completion of an audit.

''(e) OBLIGATION BECOMES DUE.—

''(1) IN GENERAL.—For purposes of subsection (a), an obligation becomes due when the right to enforce the obligation is fixed.

''(2) SPECIAL RULE REGARDING ROYALTY OBLIGATION.—The right to enforce any royalty obligation is fixed for the purposes of this Act on the last day of the calendar month following the month in which oil or gas is produced, except that with respect to any such royalty obligation which is altered by a retroactive redetermination of working interest ownership pursuant to a unit or communitization agreement, the right to enforce such royalty obligation in such amended unit or communitization agreement is fixed for the purposes of this Act on the last day of the calendar month in which such redetermination is made. The Secretary shall issue any such redetermination within 180 days of receipt of a request for redetermination.

''(f) JUDICIAL REVIEW OF ADMINISTRATIVE PROCEEDINGS.—In the event an administrative proceeding subject to subsection (a) is timely commenced and thereafter the limitation period in subsection (a) lapses during the pendency of the administrative proceeding, no party to such administrative proceeding shall be barred by this section from commencing a judicial proceeding challenging the final agency action in such administrative proceeding so long as such judicial proceeding is commenced within 90 days from receipt of notice of the final agency action.

''(g) IMPLEMENTATION OF FINAL DECISION.—In the event a judicial or administrative proceeding subject to subsection (a) is timely commenced and thereafter the limitation period in subsection (a) lapses during the pendency of such proceeding, any party to such proceeding shall not be barred from taking such action as is required or necessary to implement the final unappealable judicial or administrative decision, including any action required or necessary to implement such decision by the recovery or recoupment of an underpayment or overpayment by means of refund, credit or offset.

''(h) STAY OF PAYMENT OBLIGATION PENDING REVIEW.—Any party ordered by the Secretary or the United States to pay any obligation (including any interest, assessment or penalty) shall be entitled to a stay of such payment without bond or other surety pending administrative or judicial review unless the Secretary demonstrates that such party is or may become financially insolvent or otherwise unable to pay the obligation, in which case the Secretary may require a bond or other surety satisfactory to cover the obligation.

''(i) INAPPLICABILITY OF THE OTHER STATUTES OF LIMITATION.—The limitations set forth in sections 2401, 2415, 2416, and 2462 of title 28, United States Code, section 42 of the Mineral Leasing Act (30 U.S.C. 226–2), and section 3716 of title 31, United States Code, shall not apply to any obligation to which this Act applies.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act (30 U.S.C. 1701) is amended by adding after the item relating to section 114 the following new item:

''Sec. 115. Limitation period.''.

SEC. 4. OVERPAYMENTS: OFFSETS AND REFUNDS.

(a) IN GENERAL.—The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) is amended by adding after section 111 the following new section:

''SEC. 111A. OVERPAYMENTS: OFFSETS AND REFUNDS.

''(a) OFFSETS.—

''(1) MANNER.—For each reporting month, a lessee or person acting on behalf of a lessee shall offset all under payments and overpayments made for that reporting month for all leases within the same royalty distribution category established under permanent indefinite appropriations.

''(2) OFFSET AGAINST OBLIGATIONS.—The net overpayment resulting within each category from the offsetting described in paragraph (1) may be offset and credited against any obligation for current or subsequent reporting months which have become due on leases within the same royalty distribution category.

''(3) PRIOR APPROVAL NOT REQUIRED.—The offsetting or crediting of any overpayment, in whole or part, shall not require the prior request to or approval by the Secretary.

''(4) EXCLUSION OF CERTAIN UNDER AND OVERPAYMENTS.—Any underpayment or overpayment upon which an order has been issued which is subject to appeal shall be excluded from the offsetting provisions of this section.

''(b) REFUNDS.—

''(1) IN GENERAL.—A refund request may be made to the Secretary not before one-year after the subject reporting month. After such one-year period and when a lessee or a person acting on behalf of a lessee has made a net overpayment to the Secretary or the United States and has offset or credited in accordance with subsection (a), the Secretary shall, upon request, refund to such lessee or person the net overpayment, with accumulated interest thereon determined in accordance with section 111. If for any reason, a lessee or person acting on behalf of a lessee is no longer accruing obligations on any lease within a category, then such lessee or person may immediately file a request for a refund of any net overpayment and accumulated interest.

''(2) REQUEST.—The request for refund is sufficient if it—

''(A) is made in writing to the Secretary;

''(B) identifies the person entitled to such refund; and

''(C) provides the Secretary information that reasonably enables the Secretary to identify the overpayment for which such refund is sought.

''(3) TREATMENT AS WRITTEN REQUEST OR DEMAND.—Service of a request for refund shall be a 'written request or demand' sufficient to commence an administrative proceeding.

''(4) PAYMENT BY SECRETARY OF THE TREASURY.—The Secretary shall certify the amount of the refund to be paid under paragraph (1) to the Secretary of the Treasury who is authorized and directed to make such refund.

''(5) PAYMENT PERIOD.—A refund under this subsection shall be paid within 90 days of the date on which the request for refund was received by the Secretary.

''(c) LIMITATION ON OFFSETS AND REFUNDS.—

''(1) LIMITATION PERIOD FOR OFFSETS AND REFUNDS.—Except as provided by paragraph (2), a lessee or person acting on behalf of a lessee may not offset or receive a refund of any overpayment which arises from or relates to an obligation unless such offset or refund request is initiated within six years from the date on which the obligation which is the subject of the overpayment became due.

''(2) EXCEPTION.—(A) For any overpayment the recoupment of which (in whole or in part) by offset or refund, or both, may occur beyond the six-year limitation period provided in paragraph (1), where the issue of whether an overpayment occurred has not been finally determined, or where recoupment of the overpayment has not been accomplished within said six-year period, the lessee or person acting on behalf of a lessee may preserve its right to recover or recoup the overpayment beyond the limitation period by filing a written notice of the overpayment with the Secretary within the six-year period.

''(B) Notice under subparagraph (A) shall be sufficient if it—

''(i) identifies the person who made such overpayment;

''(ii) asserts the obligation due the lessee or person; and

''(iii) identifies the obligation by lease, production month and amount, as well as the reason or reasons such overpayment is due.

''(d) PROHIBITION AGAINST REDUCTION OF REFUNDS OR OFFSETS.—In no event shall the Secretary directly or indirectly claim any amount or amounts against, or reduce any offset or refund (or interest accrued thereon) by, the amount of any obligation the enforcement of which is barred by section 115.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act (30 U.S.C. 1701)is amended by adding after the item relating to section 111 the following new item:

''Sec. 111A. Overpayments: offsets and refunds.''.

SEC. 5. REQUIRED RECORDKEEPING.

Section 103 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1713(b)) is amended by adding at the end the following:

''(c) Records required by the Secretary for the purpose of determining compliance with an applicable mineral leasing law, lease provision, regulation or order with respect to oil and gas leases from Federal lands or the Outer Continental Shelf shall be maintained for six years after an obligation becomes due unless the Secretary commences a judicial or administrative proceeding with respect to an obligation within the time period prescribed by section 115 in which such records may be relevant. In that event, the Secretary may direct the record holder to maintain such records until the final nonappealable decision in such judicial or administrative proceeding is rendered. Under no circumstance shall a record holder be required to maintain or produce any record covering a time period for which a substantive claim with respect to an obligation to which the record relates would be barred by the applicable statute of limitation in section 115.''.

SEC. 6. ROYALTY INTEREST, PENALTIES, AND PAYMENTS.

(a) INTEREST CHARGED ON LATE PAYMENTS AND UNDERPAYMENTS.—Section 111(a) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721(a)) is amended to read as follows:

''(a) In the case of oil and gas leases where royalty payments are not received by the Secretary on the date that such payments are due, or are less than the amount due, the Secretary shall charge interest on a net late payment or underpayment at the rate published by the Department of the Treasury as the Treasury Current Value Of Funds Rate. The Secretary may waive or forego such interest in whole or in part. In the case of a net underpayment for a given reporting month, interest shall be computed and charged only on the amount of the net underpayment and not on the total amount due from the date of the net underpayment. The net underpayment is determined by offsetting in the same manner as required under paragraphs (1) and (2) of section 111A(a). Interest may only be billed by the Secretary for any net underpayment not less than one year following the subject reporting month.''.

(b) CHARGE ON LATE PAYMENT MADE BY THE SECRETARY.—Section 111(b) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721(b)) is amended to read as follows:

''(b) Any payment made by the Secretary to a State under section 35 of the Mineral Leasing Act, and any other payment made by the Secretary which is not paid on the date required under such section 35, shall include an interest charge computed at the rate published by the Department of the Treasury as the Treasury Current Value of Funds Rate. The Secretary shall not be required to pay interest under this paragraph until collected or when such interest has been waived or is otherwise not collected. With respect to any obligation, the Secretary may waive or forego interest otherwise required under section 3717 of title 31, United States Code.''.

(c) PERIOD.—Section 111(f) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721(f)) is amended to read as follows:

''(f) Unless waived or not collected pursuant to subsections (a)(2) and (b)(2), interest shall be charged under this section only for the number of days a payment is late.''.

(d) LESSEE INTEREST.—Section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721) is amended by adding the following after subsection (g):

''(h) If a net overpayment, as determined by offsetting as required under section 111A(1) and (2) for a reporting month, interest shall be allowed and paid or credited on such net overpayment, with such interest to accrue from the date such net overpayment was made, at the rate published by the Department of the Treasury as the Treasury Current Value of Funds Rate.''.

(e) PAYMENT EXCEPTION FOR MINIMAL PRODUCTION.—Section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721) is amended by adding the following after subsection (h):

''(i) For any well on a lease which produces on average less than 250 thousand cubic feet of gas per day or 25 barrels of oil per day, the royalty on the actual or allocated lease production may be paid—

''(1) for a 12-month period, only based on actual production removed or sold from the lease; and

''(2) 6 months following such period, for additional production allocated to the lease during the period.

No interest shall be allowed or accrued on any underpayment resulting from this payment methodology until the month following the applicable 12-month period.''.

SEC. 7. LIMITATION ON ASSESSMENTS.

Section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721) is amended by adding the following after subsection (i):

''(j) The Secretary may levy or impose an assessment upon any person not to exceed $250 for any reporting month for the inaccurate reporting of information required under subsection (k). No assessment may be levied or imposed upon any person for any underpayment, late payment, or estimated payment or for any erroneous or incomplete royalty or production related report for information not required by subsection (k) absent a showing of gross negligence or willful misconduct.''.

SEC. 8. COST-EFFECTIVE AUDIT AND COLLECTION REQUIREMENTS.

Section 101 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) is amended by adding the following after subsection (c):

''(d)(1) If the Secretary determines that the cost of accounting for and collecting of any obligation due for any oil or gas production exceeds or is likely to exceed the amount of the obligation to be collected, the Secretary shall waive such obligation.

''(2) The Secretary shall develop a lease level reporting and audit strategy which eliminates multiple or redundant reporting of information.

''(3) In carrying out this section, for onshore production from any well which is less than 250 thousand cubic feet of gas per day or 25 barrels of oil per day, or for offshore production for any well less than 1,500,000 cubic feet of gas per day or 150 barrels of oil per day, the Secretary shall only require the lessee to submit the information described in section 111(k). For such onshore and offshore production, the Secretary shall not conduct royalty reporting compliance and enforcement activities, levy or impose assessments described in such section 111(k) and shall not bill for comparisons between royalty reporting and production information. The Secretary may only conduct audits on such leases if the Secretary has reason to believe that the lessee has not complied with payment obligations for at least three months during a twelve month period. The Secretary shall not perform such audit if the Secretary determines that the cost of conducting the audit exceeds or is likely to exceed the additional royalties expected to be received as a result of such audit.''.–

SEC. 9. ELIMINATION OF NOTICE REQUIREMENT.

Section 23(a)(2) of the Outer Continental Shelf Lands Act (43 U.S.C. 1349(a)(2)) is amended to read as follows:

''(2) Except as provided in paragraph (3) of this subsection, no action may be commenced under subsection (a)(1) of this section if the Attorney General has commenced and is diligently prosecuting a civil action in a court of the United States or a State with respect to such matter, but in any such action in a court of the United States any person having a legal interest which is or may be adversely affected may intervene as a matter of right.''.

SEC. 10. ROYALTY IN KIND.

(a) IN GENERAL.—Section 27(a)(1) of the Outer Continental Shelf Lands Act (43 U.S.C. 1353(a)(1)) and the first undesignated paragraph of section 36 of the Mineral Leasing Act (30 U.S.C. 192) are each amended by adding at the end the following: ''Any royalty or net profit share of oil or gas accruing to the United States under any lease issued or maintained by the Secretary for the exploration, production and development of oil and gas on Federal lands or the Outer Continental Shelf, at the Secretary's option, may be taken in kind at or near the lease upon 90 days prior written notice to the lessee. Once the United States has commenced taking royalty in kind, it shall continue to do so until 90 days after the Secretary has provided written notice to the lessee that it will resume taking royalty in value. Delivery of royalty in kind by the lessee shall satisfy in full the lessee's royalty obligation. Once the oil or gas is delivered in kind, the lessee shall not be subject to the reporting and recordkeeping requirements, including requirements under section 103, except for those reports and records necessary to verify the volume of oil or gas produced and delivered prior to or at the point of delivery.''.

(b) SALE.—Section 27(c)(1) of the Outer Continental Shelf Lands Act (43 U.S.C. 1353(c)(1)) is amended by striking ''competitive bidding for not more than its regulated price, or if no regulated price applies, not less than its fair market value'' and inserting ''competitive bidding or private sale''.

SEC. 11. TIME, MANNER, AND INFORMATION REQUIREMENTS FOR ROYALTY PAYMENT AND REPORTING.

Section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721) is amended by adding the following after subsection (j):

''(k)(1) Any royalty payment on an obligation due the United States for oil or gas produced pursuant to an oil and gas lease administered by the Secretary shall be payable at the end of the month following the month in which oil or gas is removed or sold from such lease.

''(2) Royalty reporting with respect to any obligation shall be by lease and shall include only the following information:

''(A) identification of the lease;

''(B) product type;

''(C) volume (quantity) of such oil or gas produced;

''(D) quality of such oil or gas produced;

''(E) method of valuation and value, including deductions; and

''(F) royalty due the United States.

''(3) Other than the reporting required under paragraph (2), the Secretary shall not require additional reports or information for production or royalty accounting, including (but not limited to) information or reports on allowances, payor information, selling arrangements, and revenue source.

''(4) No assessment may be imposed on a retroactive adjustments with respect to royalty information made on a net basis for reports described in paragraph (2).

''(5) The Secretary shall establish reporting thresholds for de minimis production, which is defined as less than 100 thousand cubic feet of gas per day or 10 barrels of oil per day per lease. For such de minimis production, the lessee shall report retroactive adjustments with the current month royalty payment, and the Secretary shall not bill for, or collect, comparisons to production, assessments, or interest.

''(6) If the deadline for tendering a royalty payment imposed by paragraph (1) cannot be met for one or more leases, an estimated royalty payment in the approximate amount of royalties that would otherwise be due may be made by a lessee or person acting on behalf of a lessee for such leases to avoid late payment interest charges. When such estimated royalty payment is established, actual royalties become due at the end of the second month following the month the production was removed or sold for as long as the estimated balance exists. Such estimated royalty payment may be carried forward and not reduced by actual royalties paid. Any estimated balance may be adjusted, recouped, or reinstated, at any time. The requirements of paragraph (2) shall not apply to any estimated royalty payment.''.

SEC. 12. REPEALS.

(a) FOGRMA.—Section 307 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1755), is repealed. Section 1 of such Act (relating to the table of contents) is amended by striking out the item relating to section 307.

(b) OCSLA.—Effective on the date of the enactment of this Act, section 10 of the Outer Continental Shelf Lands Act (43 U.S.C. 1339) is repealed.

SEC. 13. INDIAN LANDS.

The amendments made by this Act shall not apply with respect to Indian lands, and the provisions of the Federal Oil and Gas Royalty Management Act of 1982 as in effect on the day before the date of enactment of this Act shall apply after such date only with respect to Indian lands.

SEC. 14. EFFECTIVE DATE.

This Act, and the amendments made by this Act, shall take effect on the date of the enactment of this Act with respect to any obligation which becomes due on or after such date of enactment.

ADDITIONAL COSPONSORS

S. 648

At the request of Mr. COHEN, the name of the Senator from Maine [Ms. SNOWE] was added as a cosponsor of S. 648, a bill to clarify treatment of certain claims and defenses against an insured depository institution under receivership by the Federal Deposit Insurance Corporation, and for other purposes.

S. 678

At the request of Mr. AKAKA, the names of the Senator from North Dakota [Mr. CONRAD], and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of S. 678, a bill to provide for the coordination and implementation of a national aquaculture policy for the private sector by the Secretary of Agriculture, to establish an aquaculture development and research program, and for other purposes.

S. 690

At the request of Mr. AKAKA, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 690, a bill to amend the Federal Noxious Weed Act of 1974 and the Terminal Inspection Act to improve the exclusion, eradication, and control of noxious weeds and plants, plant products, plant pests, animals, and other organisms within and into the United States, and for other purposes.

S. 890

At the request of Mr. KOHL, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 890, a bill to amend title 18, United States Code, with respect to gun free schools, and for other purposes.

S. 1001

At the request of Mr. BAUCUS, his name was added as a cosponsor of S. 1001, a bill to reform regulatory procedures, and for other purposes.

SENATE RESOLUTION 103

At the request of Mr. DOMENICI, the names of the Senator from California [Mrs. BOXER], and the Senator from Colorado [Mr. BROWN] were added as cosponsors of Senate Resolution 103, a resolution to proclaim the week of October 15 through October 21, 1995, as National Character Counts Week, and for other purposes.

SENATE RESOLUTION 146—TO DESIGNATE NATIONAL FAMILY WEEK

Mr. JOHNSTON submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES.146

Whereas the family is the basic strength of any free and orderly society;

Whereas it is appropriate to honor the family as a unit essential to the continued well-being of the United States; and

Whereas it is fitting that official recognition be given to the importance of family loyalties and ties: Now, therefore, be it

Resolved, That the Senate designates the week beginning on November 19, 1995, and the week beginning on November 24, 1996, as ''National Family Week''. The Senate requests the President to issue a proclamation calling on the people of the United States to observe each week with appropriate ceremonies and activities.

• Mr. JOHNSTON. Mr. President, I submitted legislation in the 103d Congress designating the week beginning on November 21, 1993, and the week beginning on November 20, 1994, as ''National Family Week.'' This was signed by the President and became Public Law 103–153. Today I am pleased to submit legislation which would designate a ''National Family Week'' for the following 2 years, the week beginning on November 19, 1995, and the week beginning on November 24, 1996.

The family is the basic strength of any free and orderly society and it is rather appropriate to honor the family as a unit essential to the continued well-being of the United States. It is only fitting that official recognition be given to the importance of family loyalties and ties and that the people of the United States observe such weeks with appropriate ceremonies and activities.

Since Thanksgiving falls during both these weeks, families may already be gathered for festivities. Therefore, it is particularly suitable to pause as a Nation and recognize the support that families give to their members, and therefore to the community of the United States. I hope my colleagues will join me in this effort.•

SENATE RESOLUTION 147—TO DESIGNATE NATIONAL HISTORICALLY BLACK COLLEGES WEEK

Mr. THURMOND submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 147

Whereas there are 103 historically black colleges and universities in the United States;

Whereas black colleges and universities provide the quality education so essential to full participation in a complex, highly technological society;

Whereas black colleges and universities have a rich heritage and have played a prominent role in American history;

Whereas black colleges and universities have allowed many underprivileged students to attain their full potential through higher education; and

Whereas the achievements and goals of historically black colleges and universities are deserving of national recognition: Now, therefore, be it

Resolved, That the Senate designates the weeks beginning September 24, 1995, and September 22, 1996, as ''National Historically Black Colleges and Universities Week''. The Senate requests the President of the United States to issue a proclamation calling on the people of the United States and interested groups to observe the weeks with appropriate ceremonies, activities, and programs to demonstrate support for historically black colleges and universities in the United States.

Mr. THURMOND. Mr. President, I am pleased to rise today to submit a Senate Resolution which authorizes and requests the President to designate the weeks beginning September 24, 1995, and September 22, 1996, as ''National Historically Black Colleges Week''.

It is my privilege to sponsor this legislation for the 11th time honoring the Historically Black Colleges of our Country.

Eight of the 103 Historically Black Colleges, namely Allen University, Benedict College, Claflin College, South Carolina State University, Morris College, Voorhees College, Denmark Technical College, and Clinton Junior College, are located in my home State. These colleges are vital to the higher education system of South Carolina. They have provided thousands of economically disadvantaged young people with the opportunity to obtain a college education.

Mr. President, thousands of young Americans have received quality educations at these 103 schools. These institutions have a long and distinguished history of providing the training necessary for participation in a rapidly changing society. Historically Black Colleges offer our citizens a variety of curricula and programs through which young people develop skills and talents, thereby expanding opportunities for continued social progress.

Recent statistics show that Historically Black Colleges and Universities have graduated 60 percent of the black pharmacists in the Nation, 40 percent of the black attorneys, 50 percent of the black engineers, 75 percent of the black military officers, and 80 percent of the black members of the Judiciary.

Mr. President, through adoption of this Senate Resolution, Congress can reaffirm its support for Historically Black Colleges, and appropriately recognize their important contributions to our Nation. I look forward to the speedy adoption of this Resolution.

SENATE RESOLUTION 148—RELATIVE TO THE ARREST OF HARRY WU

Mr. HELMS submitted the following resolution; which was considered and agreed to:

S. RES. 148

Whereas Peter H. Wu, known as Harry Wu, attempted to enter the People's Republic of China on June 19, 1995, near the China-Kazakhstan border;

Whereas Harry Wu, a 58-year-old American citizen, was traveling on a valid United States passport and a valid visa issued by the Chinese authorities;

Whereas the Chinese authorities confined Harry Wu to house arrest for 3 days, after which time he has not been seen or heard from;

Whereas the Chinese Foreign Ministry notified the United States Embassy in Beijing of Mr. Wu's detention on Friday, June 23;

Whereas the United States Embassy in Beijing approached the Chinese Foreign Ministry on Monday, June 26, to issue an official demarche for the detention of an American citizen;

Whereas the terms of the United States-People's Republic of China Consular Convention on February 19, 1982, require that United States Government officials shall be accorded access to an American citizen as soon as possible but not more than 48 hours after the United States has been notified of such detention;

Whereas on Wednesday, June 28, the highest ranking representative of the People's Republic of China in the United States refused to offer the United States Government any information on Harry Wu's whereabouts or the charges brought against him;

Whereas the Government of the People's Republic of China is in violation of the terms of its Consular Convention;

Whereas Harry Wu, who was born in China, has already spent 19 years in Chinese prisons;

Whereas Harry Wu has dedicated his life to the betterment of the human rights situation in the People's Republic of China;

Whereas Harry Wu first detailed to the United States Congress the practice of using prison labor to produce products for export from China to other countries;

Whereas Harry Wu testified before the Committee on Foreign Relations of the Senate on May 4, 1995, informing the Committee, the Senate, and the American people about the Chinese government practice of murdering Chinese prisoners, including political prisoners, for the purpose of harvesting their organs for sale on the international market;

Whereas on June 2, 1995, the President of the United States announced his determination that further extension of the waiver authority granted by section 402(c) of the Trade Act of 1974 (Public Law 93–618; 88 Stat. 1978), also known as ''Jackson-Vanik'', will substantially promote freedom of emigration from the People's Republic of China;

Whereas This waiver authority will allow the People's Republic of China to receive the lowest tariff rates possible, also known as Most-Favored-Nation trading status, for a period of 12 months beginning on July 3, 1995; and

Whereas The Chinese government and people benefit substantially from the continuation of such trading benefits: Now, therefore, be it

Resolved, That (a) the United States Senate expresses its condemnation of the arrest of Peter H. Wu and its deep concern for his well-being.

(b) It is the sense of the Senate that—

(1) the People's Republic of China must immediately comply with its commitments under the United States-People's Republic of China Consular Convention of February 19, 1982, by allowing consular access to Peter H. Wu;

(2) the People's Republic of China should provide immediately a full accounting of Peter Wu's whereabouts and the charges being brought against him; and

(3) the President of the United States should use every diplomatic means available to ensure Peter Wu's safe and expeditious return to United States.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President of the United States with the request that the President further transmit such copy to the Embassy of the People's Republic of China in the United States.

AMENDMENTS SUBMITTED

THE COMPREHENSIVE REGULATORY REFORM ACT OF 1995

DOLE (AND OTHERS) AMENDMENT NO. 1487

Mr. DOLE (for himself, Mr. JOHNSTON, Mr. HATCH, Mr. HEFLIN, Mr. NICKLES, Mr. ROTH, Mr. MURKOWSKI, Mr. BOND, Mr. GRASSLEY, Mr. COVERDELL, Mr. THOMPSON, Mr. CRAIG, Mr. BROWN, Mr. THOMAS, Mr. KYL, Mr. BREAUX, Mrs. HUTCHISON, Mr. ABRAHAM, Mr. GRAMS, and Mr. LOTT) proposed an amendment to the bill (S. 343) to reform the regulatory process, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Comprehensive Regulatory Reform Act of 1995''.

SEC. 2. DEFINITIONS.

Section 551 of title 5, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking ''this subchapter'' and inserting ''this chapter and chapters 7 and 8'';

(2) in paragraph (13), by striking ''and'';

(3) in paragraph (14), by striking the period at the end and inserting ''; and''; and

(4) by adding at the end the following new paragraph:

''(15) 'Director' means the Director of the Office of Management and Budget.''.

SEC. 3. RULEMAKING.

Section 553 of title 5, United States Code, is amended to read as follows:

''§ 553. Rulemaking

''(a) APPLICABILITY.—This section applies to every rulemaking, according to the provisions thereof, except to the extent that there is involved—

''(1) a matter pertaining to a military or foreign affairs function of the United States;

''(2) a matter relating to the management or personnel practices of an agency;

''(3) an interpretive rule, general statement of policy, guidance, or rule of agency organization, procedure, or practice, unless such rule, statement, or guidance has general applicability and substantially alters or creates rights or obligations of persons outside the agency; or

''(4) a rule relating to the acquisition, management, or disposal by an agency of real or personal property, or of services, that is promulgated in compliance with otherwise applicable criteria and procedures.

''(b) NOTICE OF PROPOSED RULEMAKING.—General notice of proposed rulemaking shall be published in the Federal Register, unless all persons subject thereto are named and either personally served or otherwise have actual notice of the proposed rulemaking in accordance with law. Each notice of proposed rulemaking shall include—

''(1) a statement of the time, place, and nature of public rulemaking proceedings;

''(2) a succinct explanation of the need for and specific objectives of the proposed rule, including an explanation of the agency's determination of whether or not the rule is a major rule within the meaning of section 621(5);

''(3) a succinct explanation of the specific statutory basis for the proposed rule, including an explanation of—

''(A) whether the interpretation is clearly required by the text of the statute; or

''(B) if the interpretation is not clearly required by the text of the statute, an explanation that the interpretation is within the range of permissible interpretations of the statute as identified by the agency, and an explanation why the interpretation selected by the agency is the agency's preferred interpretation;

''(4) the terms or substance of the proposed rule;

''(5) a summary of any initial analysis of the proposed rule required to be prepared or issued pursuant to chapter 6;

''(6) a statement that the agency seeks proposals from the public and from State and local governments for alternative methods to accomplish the objectives of the rulemaking that are more effective or less burdensome than the approach used in the proposed rule; and

''(7) a statement specifying where the file of the rulemaking proceeding maintained pursuant to subsection (j) may be inspected and how copies of the items in the file may be obtained.

''(c) PERIOD FOR COMMENT.—The agency shall give interested persons not less than 60 days after providing the notice required by subsection (b) to participate in the rulemaking through the submission of written data, views, or arguments.

''(d) GOOD CAUSE EXCEPTION.—Unless notice or hearing is required by statute, a final rule may be adopted and may become effective without prior compliance with subsections (b) and (c) and (e) through (g) if the agency for good cause finds that providing notice and public procedure thereon before the rule becomes effective is impracticable, unnecessary, or contrary to the public interest. If a rule is adopted under this subsection, the agency shall publish the rule in the Federal Register with the finding and a succinct explanation of the reasons therefor.

''(e) PROCEDURAL FLEXIBILITY.—To collect relevant information, and to identify and elicit full and representative public comment on the significant issues of a particular rulemaking, the agency may use such other procedures as the agency determines are appropriate, including—

''(1) the publication of an advance notice of proposed rulemaking;

''(2) the provision of notice, in forms which are more direct than notice published in the Federal Register, to persons who would be substantially affected by the proposed rule but who are unlikely to receive notice of the proposed rulemaking through the Federal Register;

''(3) the provision of opportunities for oral presentation of data, views, information, or rebuttal arguments at informal public hearings, meetings, and round table discussions, which may be held in the District of Columbia and other locations;

''(4) the establishment of reasonable procedures to regulate the course of informal public hearings, meetings and round table discussions, including the designation of representatives to make oral presentations or engage in direct or cross-examination on behalf of several parties with a common interest in a rulemaking, and the provision of transcripts, summaries, or other records of all such public hearings and summaries of meetings and round table discussions;

''(5) the provision of summaries, explanatory materials, or other technical information in response to public inquiries concerning the issues involved in the rulemaking; and

''(6) the adoption or modification of agency procedural rules to reduce the cost or complexity of the procedural rules.

''(f) PLANNED FINAL RULE.—If the provisions of a final rule that an agency plans to adopt are so different from the provisions of the original notice of proposed rulemaking that the original notice did not fairly apprise the public of the issues ultimately to be resolved in the rulemaking or of the substance of the rule, the agency shall publish in the Federal Register a notice of the final rule the agency plans to adopt, together with the information relevant to such rule that is required by the applicable provisions of this section and that has not previously been published in the Federal Register. The agency shall allow a reasonable period for comment on such planned final rule prior to its adoption.

''(g) STATEMENT OF BASIS AND PURPOSE.—An agency shall publish each final rule it adopts in the Federal Register, together with a concise statement of the basis and purpose of the rule and a statement of when the rule may become effective. The statement of basis and purpose shall include—

''(1) an explanation of the need for, objectives of, and specific statutory authority for, the rule;

''(2) a discussion of, and response to, any significant factual or legal issues presented by the rule, or raised by the comments on the proposed rule, including a description of the reasonable alternatives to the rule proposed by the agency and by interested persons, and the reasons why such alternatives were rejected;

''(3) a succinct explanation of whether the specific statutory basis for the rule is expressly required by the text of the statute, or if the specific statutory interpretation upon which the rule is based is not expressly required by the text of the statute, an explanation that the interpretation is within the range of permissible interpretations of the statute as identified by the agency, and why the agency has rejected other interpretations proposed in comments to the agency;

''(4) an explanation of how the factual conclusions upon which the rule is based are substantially supported in the rulemaking file; and

''(5) a summary of any final analysis of the rule required to be prepared or issued pursuant to chapter 6.

''(h) NONAPPLICABILITY.—In the case of a rule that is required by statute to be made on the record after opportunity for an agency hearing, sections 556 and 557 shall apply in lieu of subsections (c), (e), (f), and (g).

''(i) EFFECTIVE DATE.—An agency shall publish the final rule in the Federal Register

not later than 60 days before the effective date of such rule. An agency may make a rule effective in less than 60 days after publication in the Federal Register if the rule grants or recognizes an exemption, relieves a restriction, or if the agency for good cause finds that such a delay in the effective date would be contrary to the public interest and publishes such finding and an explanation of the reasons therefor, with the final rule.

''(j) RULEMAKING FILE.—(1) The agency shall maintain a file for each rulemaking proceeding conducted pursuant to this section and shall maintain a current index to such file.

''(2) Except as provided in subsection (k), the file shall be made available to the public not later than the date on which the agency makes an initial publication concerning the rule.

''(3) The rulemaking file shall include—

''(A) the notice of proposed rulemaking, any supplement to, or modification or revision of, such notice, and any advance notice of proposed rulemaking;

''(B) copies of all written comments received on the proposed rule;

''(C) a transcript, summary, or other record of any public hearing conducted on the rulemaking;

''(D) copies, or an identification of the place at which copies may be obtained, of factual and methodological material that pertains directly to the rulemaking and that was considered by the agency in connection with the rulemaking, or that was submitted to or prepared by or for the agency in connection with the rulemaking; and

''(E) any statement, description, analysis, or other material that the agency is required to prepare or issue in connection with the rulemaking, including any analysis prepared or issued pursuant to chapter 6.

The agency shall place each of the foregoing materials in the file as soon as practicable after each such material becomes available to the agency.

''(k) CONFIDENTIAL TREATMENT.—The file required by subsection (j) need not include any material described in section 552(b) if the agency includes in the file a statement that notes the existence of such material and the basis upon which the material is exempt from public disclosure under such section. The agency may not substantially rely on any such material in formulating a rule unless it makes the substance of such material available for adequate comment by interested persons. The agency may use summaries, aggregations of data, or other appropriate mechanisms to protect the confidentiality of such material to the maximum extent possible.

''(*l*) RULEMAKING PETITION.—(1) Each agency shall give an interested person the right to petition—

''(A) for the issuance, amendment, or repeal of a rule;

''(B) for the amendment or repeal of an interpretive rule or general statement of policy or guidance; and

''(C) for an interpretation regarding the meaning of a rule, interpretive rule, general statement of policy, or guidance.

''(2) The agency shall grant or deny a petition made pursuant to paragraph (1), and give written notice of its determination to the petitioner, with reasonable promptness, but in no event later than 18 months after the petition was received by the agency.

''(3) The written notice of the agency's determination shall include an explanation of the determination and a response to each significant factual and legal claim that forms the basis of the petition.

''(m) JUDICIAL REVIEW.—(1) The decision of an agency to use or not to use procedures in a rulemaking under subsection (e) shall not be subject to judicial review.

''(2) The rulemaking file required under subsection (j) shall constitute the rulemaking record for purposes of judicial review.

''(3) No court shall hold unlawful or set aside an agency rule based on a violation of subsection (j), unless the court finds that such violation has precluded fair public consideration of a material issue of the rulemaking taken as a whole.

''(4)(A) Judicial review of compliance or noncompliance with subsection (j) shall be limited to review of action or inaction on the part of an agency.

''(B) A decision by an agency to deny a petition under subsection (*l*) shall be subject to judicial review immediately upon denial, as final agency action under the statute granting the agency authority to carry out its action.

''(n) CONSTRUCTION.—(1) Notwithstanding any other provision of law, this section shall apply to and supplement the procedures governing informal rulemaking under statutes that are not generally subject to this section.

''(2) Nothing in this section authorizes the use of appropriated funds available to any agency to pay the attorney's fees or other expenses of persons intervening in agency proceedings.''.

SEC. 4. ANALYSIS OF AGENCY RULES.

(a) IN GENERAL.—Chapter 6 of title 5, United States Code, is amended by adding at the end the following:

''SUBCHAPTER II—ANALYSIS OF AGENCY RULES

''§ 621. Definitions

''For purposes of this subchapter—

''(1) except as otherwise provided, the definitions under section 551 shall apply to this subchapter;

''(2) the term 'benefit' means the reasonably identifiable significant favorable effects, quantifiable and nonquantifiable, including social, environmental, health, and economic effects, that are expected to result directly or indirectly from implementation of a rule or other agency action;

''(3) the term 'cost' means the reasonably identifiable significant adverse effects, quantifiable and nonquantifiable, including social, environmental, health, and economic effects that are expected to result directly or indirectly from implementation of a rule or other agency action;

''(4) the term 'cost-benefit analysis' means an evaluation of the costs and benefits of a rule, quantified to the extent feasible and appropriate and otherwise qualitatively described, that is prepared in accordance with the requirements of this subchapter at the level of detail appropriate and practicable for reasoned decisionmaking on the matter involved, taking into consideration the significance and complexity of the decision and any need for expedition;

''(5) the term 'major rule' means—

''(A) a rule or set of closely related rules that the agency proposing the rule, the Director, or a designee of the President determines is likely to have a gross annual effect on the economy of $50,000,000 or more in reasonably quantifiable increased costs; or

''(B) a rule that is otherwise designated a major rule by the agency proposing the rule, the Director, or a designee of the President (and a designation or failure to designate under this clause shall not be subject to judicial review);

''(6) the term 'market-based mechanism' means a regulatory program that—

''(A) imposes legal accountability for the achievement of an explicit regulatory objective on each regulated person;

''(B) affords maximum flexibility to each regulated person in complying with mandatory regulatory objectives, which flexibility shall, where feasible and appropriate, include, but not be limited to, the opportunity to transfer to, or receive from, other persons, including for cash or other legal consideration, increments of compliance responsibility established by the program; and

''(C) permits regulated persons to respond to changes in general economic conditions and in economic circumstances directly pertinent to the regulatory program without affecting the achievement of the program's explicit regulatory mandates;

''(7) the term 'performance-based standards' means requirements, expressed in terms of outcomes or goals rather than mandatory means of achieving outcomes or goals, that permit the regulated entity discretion to determine how best to meet specific requirements in particular circumstances;

''(8) the term 'reasonable alternatives' means the range of reasonable regulatory options that the agency has authority to consider under the statute granting rulemaking authority, including flexible regulatory options of the type described in section 622(c)(2)(C)(iii), unless precluded by the statute granting the rulemaking authority; and

''(9) the term 'rule' has the same meaning as in section 551(4), and—

''(A) includes any statement of general applicability that substantially alters or creates rights or obligations of persons outside the agency; and

''(B) does not include—

''(i) a rule that involves the internal revenue laws of the United States, or the assessment and collection of taxes, duties, or other revenues or receipts;

''(ii) a rule or agency action that implements an international trade agreement to which the United States is a party;

''(iii) a rule or agency action that authorizes the introduction into commerce, or recognizes the marketable status, of a product;

''(iv) a rule exempt from notice and public procedure under section 553(a);

''(v) a rule or agency action relating to the public debt;

''(vi) a rule required to be promulgated at least annually pursuant to statute, or that provides relief, in whole or in part, from a statutory prohibition, other than a rule promulgated pursuant to subtitle C of title II of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.);

''(vii) a rule of particular applicability that approves or prescribes the future rates, wages, prices, services, corporate or financial structures, reorganizations, mergers, acquisitions, accounting practices, or disclosures bearing on any of the foregoing;

''(viii) a rule relating to monetary policy or to the safety or soundness of federally insured depository institutions or any affiliate of such an institution (as defined in section 2(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(k))), credit unions, Federal Home Loan Banks, government sponsored housing enterprises, farm credit institutions, foreign banks that operate in the United States and their affiliates, branches, agencies, commercial lending companies, or representative offices, (as those terms are defined in section 1 of the International Banking Act of 1978 (12 U.S.C. 3101));

''(ix) a rule relating to the payment system or the protection of deposit insurance funds or the farm credit insurance fund;

''(x) any order issued in a rate or certificate proceeding by the Federal Energy Regulatory Commission, or a rule of general applicability that the Federal Energy Regulatory Commission certifies would increase

reliance on competitive market forces or reduce regulatory burdens;

''(xi) a rule or order relating to the financial responsibility of brokers and dealers or futures commission merchants, the safeguarding of investor securities and funds or commodity future or options customer securities and funds, the clearance and settlement of securities, futures, or options transactions, or the suspension of trading under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) or emergency action taken under the Commodity Exchange Act (7 U.S.C. 1 et seq.), or a rule relating to the protection of the Securities Investor Protection Corporation, that is promulgated under the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.); or

''(xii) a rule that involves the international trade laws of the United States.

''§ 622. Rulemaking cost-benefit analysis

''(a) DETERMINATIONS FOR MAJOR RULE.—Prior to publishing a notice of proposed rulemaking for any rule (or, in the case of a notice of proposed rulemaking that has been published but not issued as a final rule on or before the date of enactment of this subchapter, not later than 30 days after such date of enactment), each agency shall determine—

''(1) whether the rule is or is not a major rule within the meaning of section 621(5)(A)(i) and, if it is not, whether it should be designated as a major rule under section 621(5)(B); and

''(2) if the agency determines that the rule is a major rule, or otherwise designates it as a major rule, whether the rule requires or does not require the preparation of a risk assessment under section 632(a).

''(b) DESIGNATION.—(1) If an agency has determined that a rule is not a major rule within the meaning of section 621(5)(A) and has not designated the rule as a major rule within the meaning of section 621(5)(B), the Director or a designee of the President may, as appropriate, determine that the rule is a major rule or designate the rule as a major rule not later than 30 days after the publication of the notice of proposed rulemaking for the rule (or, in the case of a notice of proposed rulemaking that has been published on or before the date of enactment of this subchapter, not later than 1 year after such date of enactment).

''(2) Such determination or designation shall be published in the Federal Register, together with a succinct statement of the basis for the determination or designation.

''(c) INITIAL COST-BENEFIT ANALYSIS.—(1)(A) When the agency publishes a notice of proposed rulemaking for a major rule, the agency shall issue and place in the rulemaking file an initial cost-benefit analysis, and shall include a summary of such analysis in the notice of proposed rulemaking.

''(B)(i) When an agency, the Director, or a designee of the President has published a determination or designation that a rule is a major rule after the publication of the notice of proposed rulemaking for the rule, the agency shall promptly issue and place in the rulemaking file an initial cost-benefit analysis for the rule and shall publish in the Federal Register a summary of such analysis.

''(ii) Following the issuance of an initial cost-benefit analysis under clause (i), the agency shall give interested persons an opportunity to comment in the same manner as if the initial cost-benefit analysis had been issued with the notice of proposed rulemaking.

''(2) Each initial cost-benefit analysis shall contain—

''(A) a succinct analysis of the benefits of the proposed rule, including any beneficial effects that cannot be quantified, and an explanation of how the agency anticipates such benefits will be achieved by the proposed rule, including a description of the persons or classes of persons likely to receive such benefits;

''(B) a succinct analysis of the costs of the proposed rule, including any costs that cannot be quantified, and an explanation of how the agency anticipates such costs will result from the proposed rule, including a description of the persons or classes of persons likely to bear such costs;

''(C) a succinct description (including an analysis of the costs and benefits) of reasonable alternatives for achieving the objectives of the statute, including, where such alternatives exist, alternatives that—

''(i) require no government action, where the agency has discretion under the statute granting the rulemaking authority not to promulgate a rule;

''(ii) will accommodate differences among geographic regions and among persons with differing levels of resources with which to comply;

''(iii) employ performance-based standards, market-based mechanisms, or other flexible regulatory options that permit the greatest flexibility in achieving the regulatory result that the statutory provision authorizing the rule is designed to produce; or

''(iv) employ voluntary standards;

''(D) in any case in which the proposed rule is based on one or more scientific evaluations, scientific information, or a risk assessment, or is subject to the risk assessment requirements of subchapter III, a description of the actions undertaken by the agency to verify the quality, reliability, and relevance of such scientific evaluation, scientific information, or risk assessment; and

''(E) an explanation of how the proposed rule is likely to meet the decisional criteria of section 624.

''(d) FINAL COST-BENEFIT ANALYSIS.—(1) When the agency publishes a final major rule, the agency shall also issue and place in the rulemaking file a final cost-benefit analysis, and shall include a summary of the analysis in the statement of basis and purpose.

''(2) Each final cost-benefit analysis shall contain—

''(A) a description and comparison of the benefits and costs of the rule and of the reasonable alternatives to the rule described in the rulemaking record, including flexible regulatory options of the type described in subsection (c)(2)(C)(iii), and a description of the persons likely to receive such benefits and bear such costs; and

''(B) an analysis, based upon the rulemaking record considered as a whole, of how the rule meets the decisional criteria in section 624.

''(3) In considering the benefits and costs, the agency, when appropriate, shall consider the benefits and costs incurred by all of the affected persons or classes of persons (including specially affected subgroups).

''(e) REQUIREMENTS FOR COST-BENEFIT ANALYSES.—(1)(A) The description of the benefits and costs of a proposed and a final rule required under this section shall include, to the extent feasible, a quantification or numerical estimate of the quantifiable benefits and costs.

''(B) The quantification or numerical estimate shall—

''(i) be made in the most appropriate unit of measurement, using comparable assumptions, including time periods;

''(ii) specify the ranges of predictions; and

''(iii) explain the margins of error involved in the quantification methods and the uncertainties and variabilities in the estimates used.

''(C) An agency shall describe the nature and extent of the nonquantifiable benefits and costs of a final rule pursuant to this section in as precise and succinct a manner as possible.

''(D) The agency evaluation of the relationship of benefits to costs shall be clearly articulated.

''(E) An agency shall not be required to make such evaluation primarily on a mathematical or numerical basis.

''(F) Nothing in this subsection shall be construed to expand agency authority beyond the delegated authority arising from the statute granting the rulemaking authority.

''(2) Where practicable and when understanding industry-by-industry effects is of central importance to a rulemaking, the description of the benefits and costs of a proposed and final rule required under this section shall describe such benefits and costs on an industry by industry basis.

''(f) HEALTH, SAFETY, OR EMERGENCY EXEMPTION FROM COST-BENEFIT ANALYSIS.—(1) A major rule may be adopted and may become effective without prior compliance with this subchapter if—

''(A) the agency for good cause finds that conducting cost-benefit analysis is impracticable due to an emergency or health or safety threat that is likely to result in significant harm to the public or natural resources; and

''(B) the agency publishes in the Federal Register, together with such finding, a succinct statement of the basis for the finding.

''(2) Not later than 180 days after the promulgation of a final major rule to which this section applies, the agency shall comply with the provisions of this subchapter and, as thereafter necessary, revise the rule.

''§ 623. Agency regulatory review

''(a) PRELIMINARY SCHEDULE FOR RULES.—(1) Not later than 1 year after the date of the enactment of this section, and every 5 years thereafter, the head of each agency shall publish in the Federal Register a notice of proposed rulemaking under section 553 that contains a preliminary schedule of rules selected for review under this section by the head of the agency and in the sole discretion of the head of the agency, and request public comment thereon, including suggestions for additional rules warranting review. The agency shall allow at least 180 days for public comment.

''(2) In selecting rules for the preliminary schedule, the head of the agency shall consider the extent to which, in the judgment of the head of the agency—

''(A) a rule is unnecessary, and the agency has discretion under the statute authorizing the rule to repeal the rule;

''(B) a rule would not meet the decisional criteria of section 624, and the agency has discretion under the statute authorizing the rule to repeal the rule; or

''(C) a rule could be revised in a manner allowed by the statute authorizing the rule so as to—

''(i) substantially decrease costs;

''(ii) substantially increase benefits; or

''(iii) provide greater flexibility for regulated entities, through mechanisms including, but not limited to, those listed in section 622(c)(2)(C)(iii).

''(3) The preliminary schedule under this subsection shall propose deadlines for review of each rule listed thereon, and such deadlines shall occur not later than 11 years from the date of publication of the preliminary schedule.

''(4) Any interpretive rule, general statement of policy, or guidance that has the force and effect of a rule under section 621(9) shall be treated as a rule for purposes of this section.

''(b) SCHEDULE.—(1) Not later than 1 year after publication of a preliminary schedule under subsection (a), and subject to subsection (c), the head of each agency shall publish a final rule that establishes a schedule of rules to be reviewed by the agency under this section.

''(2) The schedule shall establish a deadline for completion of the review of each rule listed on the schedule, taking into account the criteria in subsection (d) and comments received in the rulemaking under subsection (a). Each such deadline shall occur not later than 11 years from the date of publication of the preliminary schedule.

''(3) The schedule shall contain, at a minimum, all rules listed on the preliminary schedule.

''(4) The head of the agency shall modify the agency's schedule under this section to reflect any change ordered by the court under subsection (e) or subsection (g)(3) or contained in an appropriations Act under subsection (f).

''(c) PETITIONS AND COMMENTS PROPOSING ADDITION OF RULES TO THE SCHEDULE.—(1) Notwithstanding section 553(*l*), a petition to amend or repeal a major rule or an interpretative rule, general statement of policy, or guidance on grounds arising under this subchapter may only be filed during the 180-day comment period under subsection (a) and not at any other time. Such petition shall be reviewed only in accordance with this subsection.

''(2) The head of the agency shall, in response to petitions received during the rulemaking to establish the schedule, place on the final schedule for the completion of review within the first 3 years of the schedule any rule for which a petition, on its face, together with any relevant comments received in the rulemaking under subsection (a), establishes that there is a substantial likelihood that, considering the future impact of the rule—

''(A) the rule is a major rule under section 621(5)(A); and

(B) the head of the agency would not be able to make the findings required by section 624 with respect to the rule.

''(3) For the purposes of paragraph (2), the head of the agency may consolidate multiple petitions on the same rule into 1 determination with respect to review of the rule.

''(4) The head of the agency may, at the sole discretion of the head of the agency, add to the schedule any other rule suggested by a commentator during the rulemaking under subsection (a).

''(d) CRITERIA FOR ESTABLISHING DEADLINES FOR REVIEW.—The schedules in subsections (a) and (b) shall establish deadlines for review of each rule on the schedule that take into account—

''(1) the extent to which, for a particular rule, the preliminary views of the agency are that—

''(A) the rule is unnecessary, and the agency has discretion under the statute authorizing the rule to repeal the rule;

''(B) the rule would not meet the decisional criteria of section 624, and the agency has discretion under the statute authorizing the rule to repeal the rule; or

''(C) the rule could be revised in a manner allowed by the statute authorizing the rule so as to meet the decisional criteria under section 624 and to—

''(i) substantially decrease costs;

''(ii) substantially increase benefits; or

''(iii) provide greater flexibility for regulated entities, through mechanisms including, but not limited to, those listed in section 622(c)(2)(C)(iii);

''(2) the importance of each rule relative to other rules being reviewed under this section; and

''(3) the resources expected to be available to the agency under subsection (f) to carry out the reviews under this section.

''(e) JUDICIAL REVIEW.—(1) Notwithstanding section 625 and except as provided otherwise in this subsection, agency compliance or noncompliance with the requirements of this section shall be subject to judicial review in accordance with section 706 of this title.

''(2) The United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to review agency action pursuant to subsections (a), (b), and (c).

''(3) A petition for review of final agency action under subsection (b) or subsection (c) shall be filed not later than 60 days after the agency publishes the final rule under subsection (b).

''(4) The court upon review, for good cause shown, may extend the 3-year deadline under subsection (c)(2) for a period not to exceed 1 additional year.

''(5) The court shall remand to the agency any schedule under subsection (b) only if final agency action under subsection (b) is arbitrary or capricious. Agency action under subsection (d) shall not be subject to judicial review.

''(f) ANNUAL BUDGET.—(1) The President's annual budget proposal submitted under section 1105(a) of title 31 for each agency subject to this section shall—

''(A) identify as a separate sum the amount requested to be appropriated for implementation of this section during the upcoming fiscal year; and

''(B) include a list of rules which may terminate during the year for which the budget proposal is made.

''(2) Amendments to the schedule under subsection (b) that change a deadline for review of a rule may be included in annual appropriations Acts for the relevant agencies. An authorizing committee with jurisdiction may submit, to the House of Representatives or Senate appropriations committee (as the case may be), amendments to the schedule published by an agency under subsection (b) that change a deadline for review of a rule. The appropriations committee to which such amendments have been submitted shall include or propose the amendments in the annual appropriations Act for the relevant agency. Each agency shall modify its schedule under subsection (b) to reflect such amendments that are enacted into law.

''(g) REVIEW OF RULE.—(1) For each rule on the schedule under subsection (b), the agency shall—

''(A) not later than 2 years before the deadline in such schedule, publish in the Federal Register a notice that solicits public comment regarding whether the rule should be continued, amended, or repealed;

''(B) not later than 1 year before the deadline in such schedule, publish in the Federal Register a notice that—

''(i) addresses public comments generated by the notice in subparagraph (A);

''(ii) contains a preliminary analysis provided by the agency of whether the rule is a major rule, and if so, whether it satisfies the decisional criteria of section 624;

''(iii) contains a preliminary determination as to whether the rule should be continued, amended, or repealed; and

''(iv) solicits public comment on the preliminary determination for the rule; and

''(C) not later than 60 days before the deadline in such schedule, publish in the Federal Register a final notice on the rule that—

''(i) addresses public comments generated by the notice in subparagraph (B); and

''(ii) contains a final determination of whether to continue, amend, or repeal the rule; and

''(iii) if the agency determines to continue the rule and the rule is a major rule, contains findings necessary to satisfy the decisional criteria of section 624; and

''(iv) if the agency determines to amend the rule, contains a notice of proposed rulemaking under section 553.

''(2) If the final determination of the agency is to continue or repeal the rule, that determination shall take effect 60 days after the publication in the Federal Register of the notice in paragraph (1)(C).

''(3) An interested party may petition the U.S. Court of Appeals for the District of Columbia Circuit to extend the period for review of a rule on the schedule for up to two years and to grant such equitable relief as is appropriate, if such petition establishes that—

''(A) the rule is likely to terminate under subsection (i);

''(B) the agency needs additional time to complete the review under this subsection;

''(C) terminating the rule would not be in the public interest; and

''(D) the agency has not expeditiously completed its review.

''(h) DEADLINE FOR FINAL AGENCY ACTION ON MODIFIED RULE.—If an agency makes a determination to amend a major rule under subsection (g)(1)(C)(ii), the agency shall complete final agency action with regard to such rule not later than 2 years of the date of publication of the notice in subsection (g)(1)(C) containing such determination. Nothing in this subsection shall limit the discretion of an agency to decide, after having proposed to modify a major rule, not to promulgate such modification. Such decision shall constitute final agency action for the purposes of judicial review.

''(i) TERMINATION OF RULES.—If the head of an agency has not completed the review of a rule by the deadline established in the schedule published or modified pursuant to subsection (b) and subsection (c), the head of the agency shall not enforce the rule, and the rule shall terminate by operation of law as of such date.

''(j) FINAL AGENCY ACTION.—(1) The final determination of an agency to continue or repeal a major rule under subsection (g)(1)(C) shall be considered final agency action.

''(2) Failure to promulgate an amended major rule or to make other decisions required by subsection (h) by the date established under such subsection shall be considered final agency action.

''§ 624. Decisional criteria

''(a) CONSTRUCTION WITH OTHER LAWS.—The requirements of this section shall supplement, and not supersede, any other decisional criteria otherwise provided by law.

''(b) REQUIREMENTS.—Except as provided in subsection (c), no final major rule subject to this subchapter shall be promulgated unless the agency head publishes in the Federal Register a finding that—

''(1) the benefits from the rule justify the costs of the rule;

''(2) the rule employs to the extent practicable flexible reasonable alternatives of the type described in section 622(c)(2)(C)(iii); and

''(3)(A) the rule adopts the least cost alternative of the reasonable alternatives that achieve the objectives of the statute; or

''(B) if scientific, technical, or economic uncertainties or nonquantifiable benefits to health, safety, or the environment identified by the agency in the rulemaking record make a more costly alternative that achieves the objectives of the statute appropriate and in the public interest and the agency head provides an explanation of those considerations, the rule adopts the least cost alternative of the reasonable alternatives necessary to take into account such uncertainties or benefits; and

''(4) if a risk assessment is required by section 632—

''(A) the rule is likely to significantly reduce the human health, safety, and environmental risks to be addressed; or

''(B) if scientific, technical, or economic uncertainties or nonquantifiable benefits to health, safety, or the environment, preclude making the finding under subparagraph (A), promulgating the final rule is nevertheless justified for reasons stated in writing accompanying the rule and consistent with subchapter III.

''(c) ALTERNATIVE REQUIREMENTS.—If, applying the statutory requirements upon which the rule is based, a rule cannot satisfy the criteria of subsection (b), the agency head may promulgate the rule if the agency head finds that—

''(1) the rule employs to the extent practicable flexible reasonable alternatives of the type described in section 622(c)(2)(C)(iii);

''(2)(A) the rule adopts the least cost alternative of the reasonable alternatives that achieve the objectives of the statute; or

''(B) if scientific, technical, or economic uncertainties or nonquantifiable benefits to health, safety, or the environment identified by the agency in the rulemaking record make a more costly alternative that achieves the objectives of the statute appropriate and in the public interest, and the agency head provides an explanation of those consideration, the rule adopts the least cost alternative of the reasonable alternatives necessary to take into account such uncertainties or benefits; and

''(3) if a risk assessment is required by section 632—

''(A) the rule is likely to significantly reduce the human health, safety, and environmental risks to be addressed; or

''(B) if scientific, technical, or economic uncertainties or nonquantifiable benefits to health, safety, or the environment, preclude making the finding under subparagraph (A), promulgating the final rule is nevertheless justified for reasons stated in writing accompanying the rule and consistent with subchapter III.

''(d) PUBLICATION OF REASONS FOR NONCOMPLIANCE.—If an agency promulgates a rule to which subsection (c) applies, the agency head shall prepare a written explanation of why the agency was required to promulgate a rule that does not satisfy the criteria of subsection (b) and shall transmit the explanation with the final cost-benefit analysis to Congress when the final rule is promulgated.

''§ 625. Jurisdiction and judicial review

''(a) REVIEW.—Compliance or noncompliance by an agency with the provisions of this subchapter and subchapter III shall be subject to judicial review only in accordance with this section.

''(b) JURISDICTION.—(1) Except as provided in subsection (e), subject to paragraph (2), each court with jurisdiction under a statute to review final agency action to which this title applies, has jurisdiction to review any claims of noncompliance with this subchapter and subchapter III.

''(2) Except as provided in subsection (e), no claims of noncompliance with this subchapter or subchapter III shall be reviewed separate or apart from judicial review of the final agency action to which they relate.

''(c) RECORD.—Any analysis or review required under this subchapter or subchapter III shall constitute part of the rulemaking record of the final agency action to which it pertains for the purposes of judicial review.

''(d) STANDARDS FOR REVIEW.—In any proceeding involving judicial review under section 706 or under the statute granting the rulemaking authority, failure to comply with this subchapter or subchapter III may be considered by the court solely for the purpose of determining whether the final agency action is arbitrary and capricious or an abuse of discretion (or unsupported by substantial evidence where that standard is otherwise provided by law).

''(e) INTERLOCUTORY REVIEW.—(1) The United States Court of Appeals for the District of Columbia Circuit shall have jurisdiction to review—

''(A) an agency determination that a rule is not a major rule pursuant to section 622(a); and

''(B) an agency determination that a risk assessment is not required pursuant to section 632(a).

''(2) A petition for review of agency action under paragraph (1) shall be filed within 60 days after the agency makes the determination or certification for which review is sought.

''(3) Except as provided in this subsection, no court shall have jurisdiction to review any agency determination or certification specified in paragraph (1).

''§ 626. Deadlines for rulemaking

''(a) STATUTORY.—All deadlines in statutes that require agencies to propose or promulgate any rule subject to section 622 or subchapter III during the 5-year period beginning on the effective date of this section shall be suspended until the earlier of—

''(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

''(2) the date occurring 2 years after the date of the applicable deadline.

''(b) COURT-ORDERED.—All deadlines imposed by any court of the United States that would require an agency to propose or promulgate a rule subject to section 622 or subchapter III during the 5-year period beginning on the effective date of this section shall be suspended until the earlier of—

''(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

''(2) the date occurring 2 years after the date of the applicable deadline.

''(c) OBLIGATION TO REGULATE.—In any case in which the failure to promulgate a rule by a deadline occurring during the 5-year period beginning on the effective date of this section would create an obligation to regulate through individual adjudications, the deadline shall be suspended until the earlier of—

''(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

''(2) the date occurring 2 years after the date of the applicable deadline.

''§ 627. Special rule

''Notwithstanding any other provision of the Comprehensive Regulatory Reform Act of 1995, or the amendments made by such Act, for purposes of this subchapter and subchapter IV, the head of each appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act), the National Credit Union Administration, the Federal Housing Finance Board, the Office of Federal Housing Enterprise Oversight, and the Farm Credit Administration, shall have authority with respect to such agency that otherwise would be provided under such subchapters to the Director, a designee of the President, Vice President, or any officer designated or delegated with authority under such subchapters.

''§ 628. Requirements for major environmental management activities

''(a) DEFINITION.—For purposes of this section, the term 'major environmental management activity' means—

''(1) a corrective action requirement under the Solid Waste Disposal Act;

''(2) a response action or damage assessment under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

''(3) the treatment, storage, or disposal of radioactive or mixed waste in connection with site restoration activity; and

''(4) Federal guidelines for the conduct of such activity, including site-specific guidelines,

the expected costs, expenses, and damages of which are likely to exceed, in the aggregate, $10,000,000.

''(b) APPLICABILITY.—A major environmental management activity is subject to this section unless construction has commenced on a significant portion of the activity, and—

''(1) it is more cost-effective to complete construction of the work than to apply the provisions of this subchapter; or

''(2) the application of the provisions of this subchapter, including any delays caused thereby, will result in an actual and immediate risk to human health or welfare.

''(c) REQUIREMENT TO PREPARE RISK ASSESSMENT.—(1) For each major environmental management activity or significant unit thereof that is proposed by the agency after the date of enactment of this subchapter, is pending on the date of enactment of this subchapter, or is subject to a granted petition for review pursuant to section 623, the head of an agency shall prepare—

''(A) a risk assessment in accordance with subchapter III; and

''(B) a cost-benefit analysis equivalent to that which would be required under this subchapter, if such subchapter were applicable.

''(2) In conducting a risk assessment or cost-benefit analysis under this section, the head of the agency shall incorporate the reasonably anticipated probable future use of the land and its surroundings (and any associated media and resources of either) affected by the environmental management activity.

''(3) For actions pending on the date of enactment of this section or proposed during the year following the date of enactment of this section, in lieu of preparing a risk assessment in accordance with subchapter III or cost-benefit analysis under this subchapter, an agency may use other appropriately developed analyses that allow it to make the judgments required under subsection (d).

''(d) REQUIREMENT.—The requirements of this subsection shall supplement, and not supersede, any other requirement provided by any law. A major environmental management activity under this section shall meet the decisional criteria under section 624 as if it is a major rule under such section.

''§ 629. Petition for alternative method of compliance

''(a) Except as provided in subsection (e), or unless prohibited by the statute authorizing the rule, any person subject to a major rule may petition the relevant agency to modify or waive the specific requirements of the major rule (or any portion thereof) and to authorize such person to demonstrate compliance through alternative means not otherwise permitted by the major rule. The petition shall identify with reasonable specificity the requirements for which the waiver is sought and the alternative means of compliance being proposed.

''(b) The agency shall grant the petition if the petition shows that there is a reasonable likelihood that the proposed alternative means of compliance—

''(1) would achieve the identified benefits of the major rule with at least an equivalent level of protection of health, safety, and the environment as would be provided by the major rule; and

''(2) would not impose an undue burden on the agency that would be responsible for enforcing such alternative means of compliance.

''(c) A decision to grant or to deny a petition under this subsection shall be made not later than 180 days after the petition is submitted, but in no event shall agency action taken pursuant to this section be subject to judicial review.

''(d) Following a decision to grant or deny a petition under this section, no further petition for such rule, submitted by the same person, shall be granted unless such petition pertains to a different facility or installation owned or operated by such person or unless such petition is based on a significant change in a fact, circumstance, or provision of law underlying or otherwise related to the rule occurring since the initial petition was granted or denied, that warrants the granting of such petition.

''(e) If the statute authorizing the rule which is the subject of the petition provides procedures or standards for an alternative method of compliance the petition shall be reviewed solely under the terms of the statute.

''SUBCHAPTER III—RISK ASSESSMENTS

''§ 631. Definitions

''For purposes of this subchapter—

''(1) except as otherwise provided, the definitions under section 551 shall apply to this subchapter;

''(2) the term 'exposure assessment' means the scientific determination of the intensity, frequency and duration of actual or potential exposures to the hazard in question;

''(3) the term 'hazard assessment' means the scientific determination of whether a hazard can cause an increased incidence of one or more significant adverse effects, and a scientific evaluation of the relationship between the degree of exposure to a perceived cause of an adverse effect and the incidence and severity of the effect;

''(4) the term 'major rule' has the meaning given such term in section 621(5);

''(5) the term 'risk assessment' means the systematic process of organizing and analyzing scientific knowledge and information on potential hazards, including as appropriate for the specific risk involved, hazard assessment, exposure assessment, and risk characterization;

''(6) the term 'risk characterization' means the integration and organization of hazard and exposure assessment to estimate the potential for specific harm to an exposed population or natural resource including, to the extent feasible, a characterization of the distribution of risk as well as an analysis of uncertainties, variabilities, conflicting information, and inferences and assumptions in the assessment;

''(7) the term 'screening analysis' means an analysis using simple conservative postulates to arrive at an estimate of upper bounds as appropriate, that permits the manager to eliminate risks from further consideration and analysis, or to help establish priorities for agency action; and

''(8) the term 'substitution risk' means an increased risk to human health, safety, or the environment reasonably likely to result from a regulatory option.

''§ 632. Applicability

''(a) IN GENERAL.—Except as provided in subsection (c), for each proposed and final major rule, a primary purpose of which is to protect human health, safety, or the environment, or a consequence of which is a substantial substitution risk, that is proposed by an agency after the date of enactment of this subchapter, or is pending on the date of enactment of this subchapter, the head of each agency shall prepare a risk assessment in accordance with this subchapter.

''(b) APPLICATION OF PRINCIPLES.—(1) Except as provided in subsection (c), the head of each agency shall apply the principles in this subchapter to any risk assessment conducted to support a determination by the agency of risk to human health, safety, or the environment, if such determination would be likely to have an effect on the United States economy equivalent to that of a major rule.

''(2) In applying the principles of this subchapter to risk assessments other than those in subsections (a), (b)(1), and (c), the head of each agency shall publish, after notice and public comment, guidelines for the conduct of such other risk assessments that adapt the principles of this subchapter in a manner consistent with section 633(a)(4) and the risk assessment and risk management needs of the agency.

''(3) An agency shall not, as a condition for the issuance or modification of a permit, conduct, or require any person to conduct, a risk assessment, except if the agency finds that the risk assessment meets the requirements of section 633 (a) through (f).

''(c) EXCEPTIONS.—(1) This subchapter shall not apply to risk assessments performed with respect to—

''(A) a situation for which the agency finds good cause that conducting a risk assessment is impracticable due to an emergency or health and safety threat that is likely to result in significant harm to the public or natural resources;

''(B) a rule or agency action that authorizes the introduction into commerce, or initiation of manufacture, of a substance, mixture, or product, or recognizes the marketable status of a product;

''(C) a human health, safety, or environmental inspection, an action enforcing a statutory provision, rule, or permit, or an individual facility or site permitting action, except to the extent provided by subsection (b)(3);

''(D) a screening analysis clearly identified as such; or

''(E) product registrations, reregistrations, tolerance settings, and reviews of premanufacture notices under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) and the Toxic Substances Control Act (15 U.S.C. 2601 et seq.).

''(2) An analysis shall not be treated as a screening analysis for the purposes of paragraph (1)(D) if the result of the analysis is used—

''(A) as the basis for imposing a restriction on a previously authorized substance, product, or activity after its initial introduction into manufacture or commerce; or

''(B) as the basis for a formal determination by the agency of significant risk from a substance or activity.

''(3) This subchapter shall not apply to any food, drug, or other product label or labeling, or to any risk characterization appearing on any such label.

''§ 633. Principles for risk assessments

''(a) IN GENERAL.—(1) The head of each agency shall design and conduct risk assessments in a manner that promotes rational and informed risk management decisions and informed public input into the process of making agency decisions.

''(2) The head of each agency shall establish and maintain a distinction between risk assessment and risk management.

''(3) An agency may take into account priorities for managing risks, including the types of information that would be important in evaluating a full range of alternatives, in developing priorities for risk assessment activities.

''(4) In conducting a risk assessment, the head of each agency shall employ the level of detail and rigor considered by the agency as appropriate and practicable for reasoned decisionmaking in the matter involved, proportionate to the significance and complexity of the potential agency action and the need for expedition.

''(5) An agency shall not be required to repeat discussions or explanations in each risk assessment required under this subchapter if there is an unambiguous reference to a relevant discussion or explanation in another reasonably available agency document that was prepared consistent with this section.

''(b) ITERATIVE PROCESS.—(1) Each agency shall develop and use an iterative process for risk assessment, starting with relatively inexpensive screening analyses and progressing to more rigorous analyses, as circumstances or results warrant.

''(2) In determining whether or not to proceed to a more detailed analysis, the head of the agency shall take into consideration whether or not use of additional data or the analysis thereof would significantly change the estimate of risk and the resulting agency action.

''(c) DATA QUALITY.—(1) The head of each agency shall base each risk assessment only on the best reasonably available scientific data and scientific understanding, including scientific information that finds or fails to find a correlation between a potential hazard and an adverse effect, and data regarding exposure and other relevant physical conditions that are reasonably expected to be encountered.

''(2) The agency shall select data for use in a risk assessment based on a reasoned analysis of the quality and relevance of the data, and shall describe such analysis.

''(3) In making its selection of data, the agency shall consider whether the data were published in the peer-reviewed scientific literature, or developed in accordance with good laboratory practice or published or other appropriate protocols to ensure data quality, such as the standards for the development of test data promulgated pursuant to section 4 of the Toxic Substances Control Act (15 U.S.C. 2603), and the standards for data requirements promulgated pursuant to section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a), or other form of independent evaluation.

''(4) Subject to paragraph (3), relevant scientific data submitted by interested parties shall be reviewed and considered by the agency in the analysis under paragraph (2).

''(5) When conflicts among scientific data appear to exist, the risk assessment shall include a discussion of all relevant information including the likelihood of alternative interpretations of the data and emphasizing—

''(A) postulates that represent the most reasonable inferences from the supporting scientific data; and

''(B) when a risk assessment involves an extrapolation from toxicological studies, data with the greatest scientific basis of support for the resulting harm to affected individuals, populations, or resources.

''(6) The head of an agency shall not automatically incorporate or adopt any recommendation or classification made by any foreign government, the United Nations, any international governmental body or standards-making organization, concerning the health effects value of a substance, except as provided in paragraph (2) of this subsection. Nothing in this paragraph shall be construed to affect the implementation or application of any treaty or international trade agreement to which the United States is a party.

''(d) USE OF POLICY JUDGMENTS.—(1) An agency shall not use policy judgments, including default assumptions, inferences,

models or safety factors, when relevant and adequate scientific data and scientific understanding, including site-specific data, are available. The agency shall modify or decrease the use of policy judgments to the extent that higher quality scientific data and understanding become available.

''(2) When a risk assessment involves choice of a policy judgment, the head of the agency shall—

''(A) identify the policy judgment and its scientific or policy basis, including the extent to which the policy judgment has been validated by, or conflicts with, empirical data;

''(B) explain the basis for any choices among policy judgments; and

''(C) describe reasonable alternative policy judgments that were not selected by the agency for use in the risk assessment, and the sensitivity of the conclusions of the risk assessment to the alternatives, and the rationale for not using such alternatives.

''(3) An agency shall not inappropriately combine or compound multiple policy judgments.

''(4) The agency shall, subject to notice and opportunity for public comment, develop and publish guidelines describing the agency's default policy judgments and how they were chosen, and guidelines for deciding when and how, in a specific risk assessment, to adopt alternative policy judgments or to use available scientific information in place of a policy judgment.

''(e) RISK CHARACTERIZATION.—In each risk assessment, the agency shall include in the risk characterization, as appropriate, each of the following:

''(1) A description of the hazard of concern.

''(2) A description of the populations or natural resources that are the subject of the risk assessment.

''(3) An explanation of the exposure scenarios used in the risk assessment, including an estimate of the corresponding population at risk and the likelihood of such exposure scenarios.

''(4) A description of the nature and severity of the harm that could plausibly occur.

''(5) A description of the major uncertainties in each component of the risk assessment and their influence on the results of the assessment.

''(f) PRESENTATION OF RISK ASSESSMENT CONCLUSIONS.—(1) To the extent feasible and scientifically appropriate, the head of an agency shall—

''(A) express the overall estimate of risk as a range or probability distribution that reflects variabilities, uncertainties and data gaps in the analysis;

''(B) provide the range and distribution of risks and the corresponding exposure scenarios, identifying the reasonably expected risk to the general population and, where appropriate, to more highly exposed or sensitive subpopulations; and

''(C) where quantitative estimates of the range and distribution of risk estimates are not available, describe the qualitative factors influencing the range of possible risks.

''(2) When scientific data and understanding that permits relevant comparisons of risk are reasonably available, the agency shall use such information to place the nature and magnitude of risks to human health, safety, and the environment being analyzed in context.

''(3) When scientifically appropriate information on significant substitution risks to human health, safety, or the environment is reasonably available to the agency, or is contained in information provided to the agency by a commentator, the agency shall describe such risks in the risk assessments.

''(g) PEER REVIEW.—(1) Each agency shall provide for peer review in accordance with this section of any risk assessment subject to the requirements of this subchapter that forms that basis of any major rule or a major environmental management activity.

''(2) Each agency shall develop a systematic program for balanced, independent, and external peer review that—

''(A) shall provide for the creation or utilization of peer review panels, expert bodies, or other formal or informal devices that are balanced and comprised of participants selected on the basis of their expertise relevant to the sciences involved in regulatory decisions and who are independent of the agency program that developed the risk assessment being reviewed;

''(B) shall not exclude any person with substantial and relevant expertise as a participant on the basis that such person has a potential interest in the outcome, if such interest is fully disclosed to the agency, and the agency includes such disclosure as part of the record, unless the result of the review would have a direct and predictable effect on a substantial financial interest of such person;

''(C) shall provide for a timely completed peer review, meeting agency deadlines, that contains a balanced presentation of all considerations, including minority reports and agency response to all significant peer review comments; and

''(D) shall provide adequate protections for confidential business information and trade secrets, including requiring panel members to enter into confidentiality agreements.

''(3) Each peer review shall include a report to the Federal agency concerned detailing the scientific and technical merit of data and the methods used for the risk assessment, and shall identify significant peer review comments. Each agency shall provide a written response to all significant peer review comments. All peer review comments, conclusions, composition of the panels, and the agency's responses shall be made available to the public and shall be made part of the administrative record for purposes of judicial review of any final agency action.

''(4)(A) The Director of the Office of Science and Technology Policy shall develop a systematic program to oversee the use and quality of peer review of risk assessments.

''(B) The Director or the designee of the President may order an agency to conduct peer review for any risk assessment or cost-benefit analysis that is likely to have a significant impact on public policy decisions, or that would establish an important precedent.

''(5) The proceedings of peer review panels under this section shall not be subject to the Federal Advisory Committee Act.

''(h) PUBLIC PARTICIPATION.—The head of each agency shall provide appropriate opportunities for public participation and comment on risk assessments.

''§ 634. Petition for review of a major free-standing risk assessment

''(a) Any interested person may petition an agency to conduct a scientific review of a risk assessment conducted or adopted by the agency, except for a risk assessment used as the basis for a major rule or a site-specific risk assessment.

''(b) The agency shall utilize external peer review, as appropriate, to evaluate the claims and analyses in the petition, and shall consider such review in making its determination of whether to grant the petition.

''(c) The agency shall grant the petition if the petition establishes that there is a reasonable likelihood that—

''(1)(A) the risk assessment that is the subject of the petition was carried out in a manner substantially inconsistent with the principles in section 633; or

''(B) the risk assessment that is the subject of the petition does not take into account material significant new scientific data and scientific understanding;

''(2) the risk assessment that is the subject of the petition contains significantly different results than if it had been properly conducted pursuant to subchapter III; and

''(3) a revised risk assessment will provide the basis for reevaluating an agency determination of risk, and such determination currently has an effect on the United States economy equivalent to that of major rule.

''(d) A decision to grant, or final action to deny, a petition under this subsection shall be made not later than 180 days after the petition is submitted.

''(e) If the agency grants the petition, it shall complete its review of the risk assessment not later than 1 year after its decision to grant the petition. If the agency revises the risk assessment, in response to its review, it shall do so in accordance with section 633.

''§ 635. Comprehensive risk reduction

''(a) SETTING PRIORITIES.—The head of each agency with programs to protect human health, safety, or the environment shall set priorities for the use of resources available to address those risks to human health, safety, and the environment, with the goal of achieving the greatest overall net reduction in risks with the public and private sector resources expended.

''(b) INCORPORATING RISK-BASED PRIORITIES INTO BUDGET AND PLANNING.—The head of each agency in subsection (a) shall incorporate the priorities identified under subsection (a) into the agency budget, strategic planning, regulatory agenda, enforcement, and research activities. When submitting its budget request to Congress and when announcing its regulatory agenda in the Federal Register, each covered agency shall identify the risks that the covered agency head has determined are the most serious and can be addressed in a cost-effective manner using the priorities set under subsection (a), the basis for that determination, and explicitly identify how the agency's requested budget and regulatory agenda reflect those priorities.

''(c) REPORTS BY THE NATIONAL ACADEMY OF SCIENCES.—(1) Not later than 6 months after the date of enactment of this section, the Director of the Office of Science and Technology Policy shall enter into an arrangement with the National Academy of Sciences to investigate and report on comparative risk analysis. The arrangement shall provide, to the extent feasible, for—

''(A) 1 or more reports evaluating methods of comparative risk analysis that would be appropriate for agency programs related to human health, safety, and the environment to use in setting priorities for activities; and

''(B) a report providing a comprehensive and comparative analysis of the risks to human health, safety, and the environment that are addressed by agency programs to protect human health, safety, and the environment, along with companion activities to disseminate the conclusions of the report to the public.

''(2) The report or reports prepared under paragraph (1)(A) shall be completed not later than 3 years after the date of enactment of this section. The report under paragraph (1)(B) shall be completed not later than 4 years after the date of enactment of this section, and shall draw, as appropriate, upon the insights and conclusions of the report or reports made under paragraph (1)(A). The companion activities under paragraph (1)(B) shall be completed not later than 5 years after the date of enactment of this section.

''(3)(A) The head of an agency with programs to protect human health, safety, and

the environment shall incorporate the recommendations of reports under paragraph (1) in revising any priorities under subsection (a).

''(B) The head of the agency shall submit a report to the appropriate Congressional committees of jurisdiction responding to the recommendations from the National Academy of Sciences and describing plans for utilizing the results of comparative risk analysis in agency budget, strategic planning, regulatory agenda, enforcement, and research and development activities.

''(4) Following the submission of the report in paragraph (2), for the next 5 years, the head of the agency shall submit, with the budget request submitted to Congress under section 1105(a) of title 31, a description of how the requested budget of the agency and the strategic planning activities of the agency reflect priorities determined using the recommendations of reports issued under subsection (a). The head of the agency shall include in such description—

''(A) recommendations on the modification, repeal, or enactment of laws to reform, eliminate, or enhance programs or mandates relating to human health, safety, or the environment; and

''(B) recommendation on the modification or elimination of statutory or judicially mandated deadlines,

that would assist the head of the agency to set priorities in activities to address the risks to human health, safety, or the environment that incorporate the priorities developed using the recommendations of the reports under subsection (a), resulting in more cost-effective programs to address risk.

''(5) For each budget request submitted in accordance with paragraph (4), the Director shall submit an analysis of ways in which resources could be reallocated among Federal agencies to achieve the greatest overall net reduction in risk.

''§ 636. Rule of construction

''Nothing in this subchapter shall be construed to—

''(1) preclude the consideration of any data or the calculation of any estimate to more fully describe or analyze risk, scientific uncertainty, or variability; or

''(2) require the disclosure of any trade secret or other confidential information.

''SUBCHAPTER IV—EXECUTIVE OVERSIGHT

''§ 641. Procedures

''(a) IN GENERAL.—The Director or a designee of the President shall—

''(1) establish and, as appropriate, revise procedures for agency compliance with this chapter; and

''(2) monitor, review, and ensure agency implementation of such procedures.

''(b) PUBLIC COMMENT.—Procedures established pursuant to subsection (a) shall only be implemented after opportunity for public comment. Any such procedures shall be consistent with the prompt completion of rulemaking proceedings.

''(c) TIME FOR REVIEW.—(1) If procedures established pursuant to subsection (a) include review of any initial or final analyses of a rule required under chapter 6, the time for any such review of any initial analysis shall not exceed 90 days following the receipt of the analysis by the Director, or a designee of the President.

''(2) The time for review of any final analysis required under chapter 6 shall not exceed 90 days following the receipt of the analysis by the Director, a designee of the President.

''(3)(A) The times for each such review may be extended for good cause by the President or by an officer to whom the President has delegated his authority pursuant to section 642 for an additional 45 days. At the request of the head of an agency, the President or such an officer may grant an additional extension of 45 days.

''(B) Notice of any such extension, together with a succinct statement of the reasons therefor, shall be inserted in the rulemaking file.

''§ 642. Delegation of authority

''(a) IN GENERAL.—The President may delegate the authority granted by this subchapter to an officer within the Executive Office of the President whose appointment has been subject to the advice and consent of the Senate.

''(b) NOTICE.—Notice of any delegation, or any revocation or modification thereof shall be published in the Federal Register.

''§ 643. Judicial review

''The exercise of the authority granted under this subchapter by the Director, the President, or by an officer to whom such authority has been delegated under section 642 and agency compliance or noncompliance with the procedure under section 641 shall not be subject to judicial review.

''§ 644. Regulatory agenda

''The head of each agency shall provide, as part of the semiannual regulatory agenda published under section 602—

''(1) a list of risk assessments subject to subsection 632 (a) or (b)(1) under preparation or planned by the agency;

''(2) a brief summary of relevant issues addressed or to be addressed by each listed risk assessment;

''(3) an approximate schedule for completing each listed risk assessment;

''(4) an identification of potential rules, guidance, or other agency actions supported or affected by each listed risk assessment; and

''(5) the name, address, and telephone number of an agency official knowledgeable about each listed risk assessment.''.

(b) REGULATORY FLEXIBILITY ANALYSIS.—

(1) FINAL REGULATORY FLEXIBILITY ANALYSIS.—Section 604 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

''(c)(1) Except as provided in paragraph (2), no final rule for which a final regulatory flexibility analysis is required under this section shall be promulgated unless the agency finds that the final rule minimizes significant economic impact on small entities to the maximum extent possible, consistent with the purposes of this subchapter, the objectives of the rule, and the requirements of applicable statutes.

''(2) If an agency determines that a statute requires a rule to be promulgated that does not satisfy the criterion of paragraph (1), the agency shall—

''(A) include a written explanation of such determination in the final regulatory flexibility analysis; and

''(B) transmit the final regulatory flexibility analysis to Congress when the final rule is promulgated.''.

(2) JUDICIAL REVIEW.—Section 611 of title 5, United States Code, is amended to read as follows:

''§ 611. Judicial review

''(a)(1) For any rule described in section 603(a), and with respect to which the agency—

''(A) certified, pursuant to section 605(b), that such rule would not have a significant economic impact on a substantial number of small entities;

''(B) prepared a final regulatory flexibility analysis pursuant to section 604; or

''(C) did not prepare an initial regulatory flexibility analysis pursuant to section 603 or a final regulatory flexibility analysis pursuant to section 604 except as permitted by sections 605 and 608,

an affected small entity may petition for the judicial review of such certification, analysis, or failure to prepare such analysis, in accordance with this subsection. A court having jurisdiction to review such rule for compliance with section 553 or under any other provision of law shall have jurisdiction over such petition.

''(2)(A) Notwithstanding any other provision of law, an affected small entity shall have 1 year after the effective date of the final rule to challenge the certification, analysis or failure to prepare an analysis required by this subchapter with respect to any such rule.

''(B) If an agency delays the issuance of a final regulatory flexibility analysis pursuant to section 608(b), a petition for judicial review under this subsection may be filed not later than 1 year after the date the analysis is made available to the public.

''(3) For purposes of this subsection, the term 'affected small entity' means a small entity that is or will be subject to the provisions of, or otherwise required to comply with, the final rule.

''(4) Nothing in this subsection shall be construed to limit the authority of any court to stay the effective date of any rule or provision thereof under any other provision of law.

''(5)(A) Notwithstanding section 605, if the court determines, on the basis of the court's review of the rulemaking record, that there is substantial evidence that the rule would have a significant economic impact on a substantial number of small entities, the court shall order the agency to prepare a final regulatory flexibility analysis that satisfies the requirements of section 604.

''(B) If the agency prepared a final regulatory flexibility analysis, the court shall order the agency to take corrective action consistent with section 604 if the court determines, on the basis of the court's review of the rulemaking record, that the final regulatory flexibility analysis does not satisfy the requirements of section 604.

''(6) The court shall stay the rule and grant such other relief as the court determines to be appropriate if, by the end of the 90-day period beginning on the date of the order of the court pursuant to paragraph (5), the agency fails, as appropriate—

''(A) to prepare the analysis required by section 604; or

''(B) to take corrective action consistent with section 604.

''(b) In an action for the judicial review of a rule, any regulatory flexibility analysis for such rule (including an analysis prepared or corrected pursuant to subsection (a)(5)) shall constitute part of the whole record of agency action in connection with such review.

''(c) Except as otherwise required by the provisions of this subchapter, the court shall apply the same standards of judicial review that govern the review of agency findings under the statute granting the agency authority to conduct the rulemaking.''.

(c) REVISION OF CERTAIN PROVISIONS OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT RELATING TO TESTING.—In applying section 409(c)(3)(A), 512(d)(1), or 721(b)(5)(B) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)(3)(A), 360b(d)(1), 379e(b)(5)(B)), the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency shall not prohibit or refuse to approve a substance or product on the basis of safety, where the substance or product presents a negligible or insignificant foreseeable risk to human health resulting from its intended use.

(d) TOXIC RELEASE INVENTORY REVIEW.—Section 313(d) of the Emergency Planning

and Community Right-to-Know Act of 1986 (42 U.S.C. 11023(d)) is amended—

(1) in paragraph (2) by inserting after ''epidemiological or other population studies,'' the following: ''and on the rule of reason, including a consideration of the applicability of such evidence to levels of the chemical in the environment that may result from reasonably anticipated releases''; and

(2) in subsection (e)(1), by inserting before ''Within 180 days'' the following: ''The Administrator shall grant any petition that establishes substantial evidence that the criteria in subparagraph (A) either are or are not met.''.

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) CHAPTER ANALYSIS.—Part I of title 5, United States Code, is amended by striking the chapter heading and table of sections for chapter 6 and inserting the following:

''CHAPTER 6—THE ANALYSIS OF REGULATORY FUNCTIONS

''SUBCHAPTER I—REGULATORY ANALYSIS

''SUBCHAPTER II—ANALYSIS OF AGENCY RULES

''SUBCHAPTER III—RISK ASSESSMENTS

''SUBCHAPTER IV—EXECUTIVE OVERSIGHT

(2) SUBCHAPTER HEADING.—Chapter 6 of title 5, United States Code, is amended by inserting immediately before section 601, the following subchapter heading:

''SUBCHAPTER I—REGULATORY ANALYSIS''.

SEC. 5. JUDICIAL REVIEW.

(a) IN GENERAL.—Chapter 7 of title 5, United States Code, is amended—

(1) by striking section 706; and

(2) by adding at the end the following new sections:

''§ 706. Scope of review

''(a) To the extent necessary to reach a decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action. The reviewing court shall—

''(1) compel agency action unlawfully withheld or unreasonably delayed; and

''(2) hold unlawful and set aside agency action, findings and conclusions found to be—

''(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

''(B) contrary to constitutional right, power, privilege, or immunity;

''(C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;

''(D) without observance of procedure required by law;

''(E) unsupported by substantial evidence in a proceeding subject to sections 556 and 557 or otherwise reviewed on the record of an agency hearing provided by statute;

''(F) without substantial support in the rulemaking file, viewed as a whole, for the asserted or necessary factual basis, in the case of a rule adopted in a proceeding subject to section 553; or

''(G) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court.

''(b) In making the determinations set forth in subsection (a), the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

''§ 707. Consent decrees

''In interpreting any consent decree in effect on or after the date of enactment of this section that imposes on an agency an obligation to initiate, continue, or complete rulemaking proceedings, the court shall not enforce the decree in a way that divests the agency of discretion clearly granted to the agency by statute to respond to changing circumstances, make policy or managerial choices, or protect the rights of third parties.

''§ 708. Affirmative defense

''Notwithstanding any other provision of law, it shall be an affirmative defense in any enforcement action brought by an agency that the regulated person or entity reasonably relied on and is complying with a rule, regulation, adjudication, directive, or order of such agency or any other agency that is incompatible, contradictory, or otherwise cannot be reconciled with the agency rule, regulation, adjudication, directive, or order being enforced.''.

(b) TECHNICAL AMENDMENT.—The analysis for chapter 7 of title 5, United States Code, is amended by striking the item relating to section 706 and inserting the following new items:

''706. Scope of review.
''707. Consent decrees.
''708. Affirmative defense.''.

SEC. 6. CONGRESSIONAL REVIEW.

(a) FINDING.—The Congress finds that effective steps for improving the efficiency and proper management of Government operations will be promoted if a moratorium on the implementation of certain significant final rules is imposed in order to provide Congress an opportunity for review.

(b) IN GENERAL.—Title 5, United States Code, is amended by inserting immediately after chapter 7 the following new chapter:

''CHAPTER 8—CONGRESSIONAL REVIEW OF AGENCY RULEMAKING

''§ 801. Congressional review

''(a)(1)(A) Before a rule can take effect as a final rule, the Federal agency promulgating such rule shall submit to each House of the Congress and to the Comptroller General a report containing—

''(i) a copy of the rule;

''(ii) a concise general statement relating to the rule; and

''(iii) the proposed effective date of the rule.

''(B) The Federal agency promulgating the rule shall make available to each House of Congress and the Comptroller General, upon request—

''(i) a complete copy of the cost-benefit analysis of the rule, if any;

''(ii) the agency's actions relevant to sections 603, 604, 605, 607, and 609;

''(iii) the agency's actions relevant to sections 202, 203, 204, and 205 of the Unfunded Mandates Reform Act of 1995; and

''(iv) any other relevant information or requirements under any other Act and any relevant Executive orders, such as Executive Order No. 12866.

''(C) Upon receipt, each House shall provide copies to the Chairman and Ranking Member of each committee with jurisdiction.

''(2)(A) The Comptroller General shall provide a report on each major rule to the committees of jurisdiction to each House of the Congress by the end of 12 calendar days after the submission or publication date as provided in section 802(b)(2). The report of the Comptroller General shall include an assessment of the agency's compliance with procedural steps required by paragraph (1)(B).

''(B) Federal agencies shall cooperate with the Comptroller General by providing information relevant to the Comptroller General's report under subparagraph (A).

''(3) A major rule relating to a report submitted under paragraph (1) shall take effect as a final rule, the latest of—

''(A) the later of the date occurring 60 days after the date on which—

''(i) the Congress receives the report submitted under paragraph (1); or

''(ii) the rule is published in the Federal Register;

''(B) if the Congress passes a joint resolution of disapproval described under section 802 relating to the rule, and the President signs a veto of such resolution, the earlier date—

''(i) on which either House of Congress votes and fails to override the veto of the President; or

''(ii) occurring 30 session days after the date on which the Congress received the veto and objections of the President; or

''(C) the date the rule would have otherwise taken effect, if not for this section (unless a joint resolution of disapproval under section 802 is enacted).

''(4) Except for a major rule, a rule shall take effect as otherwise provided by law after submission to Congress under paragraph (1).

''(5) Notwithstanding paragraph (3), the effective date of a rule shall not be delayed by operation of this chapter beyond the date on which either House of Congress votes to reject a joint resolution of disapproval under section 802.

''(b) A rule shall not take effect (or continue) as a final rule, if the Congress passes a joint resolution of disapproval described under section 802.

''(c)(1) Notwithstanding any other provision of this section (except subject to paragraph (3)), a rule that would not take effect by reason of this chapter may take effect, if the President makes a determination under paragraph (2) and submits written notice of such determination to the Congress.

''(2) Paragraph (1) applies to a determination made by the President by Executive order that the rule should take effect because such rule is—

''(A) necessary because of an imminent threat to health or safety or other emergency;

''(B) necessary for the enforcement of criminal laws;

''(C) necessary for national security; or

''(D) issued pursuant to a statute implementing an international trade agreement.

''(3) An exercise by the President of the authority under this subsection shall have no effect on the procedures under section 802 or the effect of a joint resolution of disapproval under this section.

''(d)(1) In addition to the opportunity for review otherwise provided under this chapter, in the case of any rule that is published in the Federal Register (as a rule that shall take effect as a final rule) during the period beginning on the date occurring 60 days before the date the Congress adjourns sine die through the date on which the succeeding Congress first convenes, section 802 shall apply to such rule in the succeeding Congress.

''(2)(A) In applying section 802 for purposes of such additional review, a rule described under paragraph (1) shall be treated as though—

''(i) such rule were published in the Federal Register (as a rule that shall take effect as a final rule) on the 15th session day after the succeeding Congress first convenes; and

''(ii) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

''(B) Nothing in this paragraph shall be construed to affect the requirement under subsection (a)(1) that a report shall be submitted to Congress before a final rule can take effect.

''(3) A rule described under paragraph (1) shall take effect as a final rule as otherwise provided by law (including other subsections of this section).

''(e)(1) Section 802 shall apply in accordance with this subsection to any major rule that is published in the Federal Register (as a rule that shall take effect as a final rule) during the period beginning on November 20, 1994, through the date on which the Comprehensive Regulatory Reform Act of 1995 takes effect.

''(2) In applying section 802 for purposes of Congressional review, a rule described under paragraph (1) shall be treated as though—

''(A) such rule were published in the Federal Register (as a rule that shall take effect as a final rule) on the date of enactment of the Comprehensive Regulatory Reform Act of 1995; and

''(B) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

''(3) The effectiveness of a rule described under paragraph (1) shall be as otherwise provided by law, unless the rule is made of no force or effect under section 802.

''(f) Any rule that takes effect and later is made of no force or effect by enactment of a joint resolution under section 802 shall be treated as though such rule had never taken effect.

''(g) If the Congress does not enact a joint resolution of disapproval under section 802, no court or agency may infer any intent of the Congress from any action or inaction of the Congress with regard to such rule, related statute, or joint resolution of disapproval.

''§ 802. Congressional disapproval procedure

''(a) For purposes of this section, the term 'joint resolution' means only a joint resolution introduced during the period beginning on the date on which the report referred to in section 801(a) is received by Congress and ending 60 days thereafter, the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule submitted by the ____ relating to ____, and such rule shall have no force or effect.'. (The blank spaces being appropriately filled in.)

''(b)(1) A resolution described in paragraph (1) shall be referred to the committees in each House of Congress with jurisdiction. Such a resolution may not be reported before the eighth day after its submission or publication date.

''(2) For purposes of this subsection the term 'submission or publication date' means the later of the date on which—

''(A) the Congress receives the report submitted under section 801(a)(1); or

''(B) the rule is published in the Federal Register.

''(c) If the committee to which is referred a resolution described in subsection (a) has not reported such resolution (or an identical resolution) at the end of 20 calendar days after the submission or publication date defined under subsection (b)(2), such committee may be discharged from further consideration of such resolution in the Senate upon a petition supported in writing by 30 Members of the Senate and in the House upon a petition supported in writing by one-fourth of the Members duly sworn and chosen or by motion of the Speaker supported by the Minority Leader, and such resolution shall be placed on the appropriate calendar of the House involved.

''(d)(1) When the committee to which a resolution is referred has reported, or when a committee is discharged (under subsection (c)) from further consideration of, a resolution described in subsection (a), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for a motion to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of resolution) are waived. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

''(2) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order.

''(3) Immediately following the conclusion of the debate on a resolution described in subsection (a), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

''(4) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in subsection (a) shall be decided without debate.

''(e) If, before the passage by one House of a resolution of that House described in subsection (a), that House receives from the other House a resolution described in subsection (a), then the following procedures shall apply:

''(1) The resolution of the other House shall not be referred to a committee.

''(2) With respect to a resolution described in subsection (a) of the House receiving the resolution—

''(A) the procedure in that House shall be the same as if no resolution had been received from the other House; but

''(B) the vote on final passage shall be on the resolution of the other House.

''(f) This section is enacted by Congress—

''(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

''(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

''§ 803. Special rule on statutory, regulatory, and judicial deadlines

''(a) In the case of any deadline for, relating to, or involving any rule which does not take effect (or the effectiveness of which is terminated) because of enactment of a joint resolution under section 802, that deadline is extended until the date 1 year after the date of the joint resolution. Nothing in this subsection shall be construed to affect a deadline merely by reason of the postponement of a rule's effective date under section 801(a).

''(b) The term 'deadline' means any date certain for fulfilling any obligation or exercising any authority established by or under any Federal statute or regulation, or by or under any court order implementing any Federal statute or regulation.

''§ 804. Definitions

''(a) For purposes of this chapter—

''(1) the term 'Federal agency' means any agency as that term is defined in section 551(1) (relating to administrative procedure);

''(2) the term 'major rule' has the same meaning given such term in section 621(5); and

''(3) the term 'final rule' means any final rule or interim final rule.

''(b) As used in subsection (a)(3), the term 'rule' has the meaning given such term in section 551, except that such term does not include any rule of particular applicability including a rule that approves or prescribes for the future rates, wages, prices, services, or allowances therefor, corporate or financial structures, reorganizations, mergers, or acquisitions thereof, or accounting practices or disclosures bearing on any of the foregoing or any rule of agency organization, personnel, procedure, practice or any routine matter.

''§ 805. Judicial review

''No determination, finding, action, or omission under this chapter shall be subject to judicial review.

''§ 806. Applicability; severability

''(a) This chapter shall apply notwithstanding any other provision of law.

''(b) If any provision of this chapter or the application of any provision of this chapter to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this chapter, shall not be affected thereby.

''§ 807. Exemption for monetary policy

''Nothing in this chapter shall apply to rules that concern monetary policy proposed or implemented by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee.''.

(c) EFFECTIVE DATE.—The amendment made by subsection (b) shall take effect on the date of enactment of this Act and shall

apply to any rule that takes effect as a final rule on or after such effective date.

(d) TECHNICAL AMENDMENT.—The table of chapters for part I of title 5, United States Code, is amended by inserting immediately after the item relating to chapter 7 the following:

"8. Congressional Review of Agency Rulemaking ..... 801".

SEC. 7. REGULATORY ACCOUNTING.

(a) DEFINITIONS.—For purposes of this section, the following definitions apply:

(1) MAJOR RULE.—The term ''major rule'' has the same meaning as defined in section 621(5)(A)(i) of title 5, United States Code. The term shall not include—

(A) administrative actions governed by sections 556 and 557 of title 5, United States Code;

(B) regulations issued with respect to a military or foreign affairs function of the United States or a statute implementing an international trade agreement; or

(C) regulations related to agency organization, management, or personnel.

(2) AGENCY.—The term ''agency'' means any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency, but shall not include—

(A) the General Accounting Office;

(B) the Federal Election Commission;

(C) the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions; or

(D) Government-owned contractor-operated facilities, including laboratories engaged in national defense research and production activities.

(b) ACCOUNTING STATEMENT.—

(1) IN GENERAL.—(A) The President shall be responsible for implementing and administering the requirements of this section.

(B) Not later than June 1, 1997, and each June 1 thereafter, the President shall prepare and submit to Congress an accounting statement that estimates the annual costs of major rules and corresponding benefits in accordance with this subsection.

(2) YEARS COVERED BY ACCOUNTING STATEMENT.—Each accounting statement shall cover, at a minimum, the 5 fiscal years beginning on October 1 of the year in which the report is submitted and may cover any fiscal year preceding such fiscal years for purpose of revising previous estimates.

(3) TIMING AND PROCEDURES.—(A) The President shall provide notice and opportunity for comment for each accounting statement. The President may delegate to an agency the requirement to provide notice and opportunity to comment for the portion of the accounting statement relating to that agency.

(B) The President shall propose the first accounting statement under this subsection not later than 2 years after the date of enactment of this Act and shall issue the first accounting statement in final form not later than 3 years after such effective date. Such statement shall cover, at a minimum, each of the fiscal years beginning after the date of enactment of this Act.

(4) CONTENT OF ACCOUNTING STATEMENT.—(A) Each accounting statement shall contain estimates of costs and benefits with respect to each fiscal year covered by the statement in accordance with this paragraph. For each such fiscal year for which estimates were made in a previous accounting statement, the statement shall revise those estimates and state the reasons for the revisions.

(B)(i) An accounting statement shall estimate the costs of major rules by setting forth, for each year covered by the statement—

(I) the annual expenditure of national economic resources for major rules, grouped by regulatory program; and

(II) such other quantitative and qualitative measures of costs as the President considers appropriate.

(ii) For purposes of the estimate of costs in the accounting statement, national economic resources shall include, and shall be listed under, at least the following categories:

(I) Private sector costs.

(II) Federal sector costs.

(III) State and local government administrative costs.

(C) An accounting statement shall estimate the benefits of major rules by setting forth, for each year covered by the statement, such quantitative and qualitative measures of benefits as the President considers appropriate. Any estimates of benefits concerning reduction in health, safety, or environmental risks shall present the most plausible level of risk practical, along with a statement of the reasonable degree of scientific certainty.

(c) ASSOCIATED REPORT TO CONGRESS.—

(1) IN GENERAL.—At the same time as the President submits an accounting statement under subsection (b), the President, acting through the Director of the Office of Management and Budget, shall submit to Congress a report associated with the accounting statement (hereinafter referred to as an ''associated report''). The associated report shall contain, in accordance with this subsection—

(A) analyses of impacts; and

(B) recommendations for reform.

(2) ANALYSES OF IMPACTS.—The President shall include in the associated report the following:

(A) Analyses prepared by the President of the cumulative impact of major rules in Federal regulatory programs covered in the accounting statement on the following:

(i) The ability of State and local governments to provide essential services, including police, fire protection, and education.

(ii) Small business.

(iii) Productivity.

(iv) Wages.

(v) Economic growth.

(vi) Technological innovation.

(vii) Consumer prices for goods and services.

(viii) Such other factors considered appropriate by the President.

(B) A summary of any independent analyses of impacts prepared by persons commenting during the comment period on the accounting statement.

(3) RECOMMENDATIONS FOR REFORM.—The President shall include in the associated report the following:

(A) A summary of recommendations of the President for reform or elimination of any Federal regulatory program or program element that does not represent sound use of national economic resources or otherwise is inefficient.

(B) A summary of any recommendations for such reform or elimination of Federal regulatory programs or program elements prepared by persons commenting during the comment period on the accounting statement.

(d) GUIDANCE FROM OFFICE OF MANAGEMENT AND BUDGET.—The Director of the Office of Management and Budget shall, in consultation with the Council of Economic Advisers, provide guidance to agencies—

(1) to standardize measures of costs and benefits in accounting statements prepared pursuant to sections 3 and 7 of this Act, including—

(A) detailed guidance on estimating the costs and benefits of major rules; and

(B) general guidance on estimating the costs and benefits of all other rules that do not meet the thresholds for major rules; and

(2) to standardize the format of the accounting statements.

(e) RECOMMENDATIONS FROM CONGRESSIONAL BUDGET OFFICE.—After each accounting statement and associated report submitted to Congress, the Director of the Congressional Budget Office shall make recommendations to the President—

(1) for improving accounting statements prepared pursuant to this section, including recommendations on level of detail and accuracy; and

(2) for improving associated reports prepared pursuant to this section, including recommendations on the quality of analysis.

(f) JUDICIAL REVIEW.—No requirements under this section shall be subject to judicial review in any manner.

SEC. 8. STUDIES AND REPORTS.

(a) RISK ASSESSMENTS.—The Administrative Conference of the United States shall—

(1) develop and carry out an ongoing study of the operation of the risk assessment requirements of subchapter III of chapter 6 of title 5, United States Code (as added by section 4 of this Act); and

(2) submit an annual report to the Congress on the findings of the study.

(b) ADMINISTRATIVE PROCEDURE ACT.—Not later than December 31, 1996, the Administrative Conference of the United States shall—

(1) carry out a study of the operation of the Administrative Procedure Act (as amended by section 3 of this Act); and

(2) submit a report to the Congress on the findings of the study, including proposals for revision, if any.

SEC. 9. MISCELLANEOUS PROVISIONS.

(a) EFFECTIVE DATE.—Except as otherwise provided, this Act and the amendments made by this Act shall take effect on the date of enactment.

(b) SEVERABILITY.—If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

THE FISHERIES ACT OF 1995 HIGH SEAS FISHERIES LICENSING ACT OF 1995

STEVENS (AND OTHERS) AMENDMENT NO. 1488

Mr. DOLE (for Mr. STEVENS for himself, Mr. KERRY, Ms. SNOWE, and Mr. BREAUX) proposed an amendment to the bill (S. 267) to establish a system of licensing, reporting, and regulation for vessels of the United States fishing on the high seas, and for other purposes; as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Fisheries Act of 1995''.

SEC. 2. TABLE OF CONTENTS.

The Table of contents for this Act is as follows:

TITLE I—HIGH SEAS FISHING COMPLIANCE

SEC. 101. SHORT TITLE.

This title may be cited as the ''High Seas Fishing Compliance Act of 1995''.

SEC. 102. PURPOSE.

It is the purpose of this Act—

(1) to implement the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, adopted by the Conference of the Food and Agriculture Organization of the United Nations on November 24, 1993; and

(2) to establish a system of permitting, reporting, and regulation for vessels of the United States fishing on the high seas.

SEC. 103. DEFINITIONS.

As used in this Act—

(1) The term ''Agreement'' means the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, adopted by the Conference of the Food and Agriculture Organization of the United Nations on November 24, 1993.

(2) The term ''FAO'' means the Food and Agriculture Organization of the United Nations.

(3) The term ''high seas'' means the waters beyond the territorial sea or exclusive economic zone (or the equivalent) of any nation, to the extent that such territorial sea or exclusive economic zone (or the equivalent) is recognized by the United States.

(4) The term ''high seas fishing vessel'' means any vessel of the United States used or intended for use—

(A) on the high seas;

(B) for the purpose of the commercial exploitation of living marine resources; and

(C) as a harvesting vessel, as a mother ship, or as any other support vessel directly engaged in a fishing operation.

(5) The term ''international conservation and management measures'' means measures to conserve or manage one or more species of living marine resources that are adopted and applied in accordance with the relevant rules of international law, as reflected in the 1982 United Nations Convention on the Law of the Sea, and that are recognized by the United States. Such measures may be adopted by global, regional, or sub-regional fisheries organizations, subject to the rights and obligations of their members, or by treaties or other international agreements.

(6) The term ''length'' means—

(A) for any high seas fishing vessel built after July 18, 1982, 96 percent of the total length on a waterline at 85 percent of the least molded depth measured from the top of the keel, or the length from the foreside of the stem to the axis of the rudder stock on that waterline, if that is greater, except that in ships designed with a rake of keel the waterline on which this length is measured shall be parallel to the designed waterline; and

(B) for any high seas fishing vessel built before July 18, 1982, registered length as entered on the vessel's documentation.

(7) The term ''person'' means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

(8) The term ''Secretary'' means the Secretary of Commerce.

(9) The term ''vessel of the United States'' means—

(A) a vessel documented under chapter 121 of title 46, United States Code, or numbered in accordance with chapter 123 of title 46, United States Code;

(B) a vessel owned in whole or part by—

(i) the United States or a territory, commonwealth, or possession of the United States;

(ii) a State or political subdivision thereof;

(iii) a citizen or national of the United States; or

(iv) a corporation created under the laws of the United States or any State, the District of Columbia, or any territory, commonwealth, or possession of the United States; unless the vessel has been granted the nationality of a foreign nation in accordance with article 92 of the 1982 United Nations Convention on the Law of the Sea and a claim of nationality or registry for the vessel is made by the master or individual in charge at the time of the enforcement action by an officer or employee of the United States authorized to enforce applicable provisions of the United States law; and

(C) a vessel that was once documented under the laws of the United States and, in violation of the laws of the United States, was either sold to a person not a citizen of the United States or placed under foreign registry or a foreign flag, whether or not the vessel has been granted the nationality of a foreign nation.

(10) The terms ''vessel subject to the jurisdiction of the United States'' and ''vessel without nationality'' have the same meaning as in section 3(c) of Maritime Drug Law Enforcement Act (46 U.S.C. 1903(c)).

SEC. 104. PERMITTING.

(a) IN GENERAL.—No high seas fishing vessel shall engage in harvesting operations on the high seas unless the vessel has on board a valid permit issued under this section.

(b) ELIGIBILITY.—

(1) Any vessel of the United States is eligible to receive a permit under this section, unless the vessel was previously authorized to be used for fishing on the high seas by a foreign nation, and

(A) the foreign nation suspended such authorization because the vessel undermined the effectiveness of international conservation and management measures, and the suspension has not expired; or

(B) the foreign nation, within the last three years preceding application for a permit under this section, withdrew such authorization because the vessel undermined the effectiveness of international conservation and management measures.

(2) The restriction in paragraph (1) does not apply if ownership of the vessel has changed since the vessel undermined the effectiveness of international conservation and management measures, and the new owner has provided sufficient evidence to the Secretary demonstrating that the previous owner or operator has no further legal, beneficial or financial interest in, or control of, the vessel.

(3) The restriction in paragraph (1) does not apply if the Secretary makes a determination that issuing a permit would not subvert the purposes of the Agreement.

(4) The Secretary may not issue a permit to a vessel unless the Secretary is satisfied that the United States will be able to exercise effectively its responsibilities under the Agreement with respect to that vessel.

(c) APPLICATION.—

(1) The owner or operator of a high seas fishing vessel may apply for a permit under this section by completing an application form prescribed by the Secretary.

(2) The application form shall contain—

(A) the vessel's name, previous names (if known), official numbers, and port of record;

(B) the vessel's previous flags (if any);

(C) the vessel's International Radio Call Sign (if any);

(D) the names and addresses of the vessel's owners and operators;

(E) where and when the vessel was built;

(F) the type of vessel;

(G) the vessel's length; and

(H) any other information the Secretary requires for the purposes of implementing the Agreement.

(d) CONDITIONS.—The Secretary shall establish such conditions and restrictions on each permit issued under this section as are necessary and appropriate to carry out the obligations of the United States under the Agreement, including but not limited to the following:

(1) The vessel shall be marked in accordance with the FAO Standard Specifications for the Marking and Identification of Fishing Vessels, or with regulations issued under section 305 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1855); and

(2) The permit holder shall report such information as the Secretary by regulation requires, including area of fishing operations and catch statistics. The Secretary shall promulgate regulations concerning conditions under which information submitted under this paragraph may be released.

(e) FEES.—

(1) The Secretary shall by regulation establish the level of fees to be charged for permits issued under this section. The amount of any fee charged for a permit issued under this section shall not exceed the administrative costs incurred in issuing such permits. The permitting fee may be in addition to any fee required under any regional permitting regime applicable to high seas fishing vessels.

(2) The fees authorized by paragraph (1) shall be collected and credited to the Operations, Research and Facilities account of the National Oceanic and Atmospheric Administration. Fees collected under this subsection shall be available for the necessary expenses of the National Oceanic and Atmospheric Administration in implementing this Act, and shall remain available until expended.

(f) DURATION.—A permit issued under this section is valid for 5 years. A permit issued under this section is void in the event the vessel is no longer eligible for United States documentation, such documentation is revoked or denied, or the vessel is deleted from such documentation.

SEC. 105. RESPONSIBILITIES OF THE SECRETARY.

(a) RECORD.—The Secretary shall maintain an automated file or record of high seas fishing vessels issued permits under section 104, including all information submitted under section 104(c)(2).

(b) INFORMATION TO FAO.—The Secretary, in cooperation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall—

(1) make available to FAO information contained in the record maintained under subsection (a);

(2) promptly notify FAO of changes in such information;

(3) promptly notify FAO of additions to or deletions from the record, and the reason for any deletion;

(4) convey to FAO information relating to any permit granted under section 104(b)(3), including the vessel's identity, owner or operator, and factors relevant to the Secretary's determination to issue the permit;

(5) report promptly to FAO all relevant information regarding any activities of high seas fishing vessels that undermine the effectiveness of international conservation and management measures, including the identity of the vessels and any sanctions imposed; and

(6) provide the FAO a summary of evidence regarding any activities of foreign vessels that undermine the effectiveness of international conservation and management measures.

(c) INFORMATION TO FLAG NATIONS.—If the Secretary, in cooperation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, has reasonable grounds to believe that a foreign vessel has engaged in activities undermining the effectiveness of international conservation and management measures, the Secretary shall—

(1) provide to the flag nation information, including appropriate evidentiary material, relating to those activities; and

(2) when such foreign vessel is voluntarily in a United States port, promptly notify the flag nation and, if requested by the flag nation, make arrangements to undertake such lawful investigatory measures as may be considered necessary to establish whether the vessel has been used contrary to the provisions of the Agreement.

(d) REGULATIONS.—The Secretary, after consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, may promulgate such regulations, in accordance with section 553 of title 5, United States Code, as may be necessary to carry out the purposes of the Agreement and this title. The Secretary shall coordinate such regulations with any other entities regulating high seas fishing vessels, in order to minimize duplication of permit application and reporting requirements. To the extent practicable, such regulations shall also be consistent with regulations implementing fishery management plans under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(e) NOTICE OF INTERNATIONAL CONSERVATION AND MANAGEMENT MEASURES.—The Secretary, in consultation with the Secretary of State, shall publish in the Federal Register, from time to time, a notice listing international conservation and management measures recognized by the United States.

SEC. 106. UNLAWFUL ACTIVITIES.

It is unlawful for any person subject to the jurisdiction of the United States—

(1) to use a high seas fishing vessel on the high seas in contravention of international conservation and management measures described in section 105(e).

(2) to use a high seas fishing vessel on the high seas, unless the vessel has on board a valid permit issued under section 104;

(3) to use a high seas fishing vessel in violation of the conditions or restrictions of a permit issued under section 104;

(4) to falsify any information required to be reported, communicated, or recorded pursuant to this title or any regulation issued under this title, or to fail to submit in a timely fashion any required information, or to fail to report to the Secretary immediately any change in circumstances that has the effect of rendering any such information false, incomplete, or misleading;

(5) to refuse to permit an authorized officer to board a high seas fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this title or any regulation issued under this title;

(6) to forcibly assault, resist, oppose, impede, intimidate, or interfere with an authorized officer in the conduct of any search or inspection described in paragraph (5);

(7) to resist a lawful arrest or detention for any action prohibited by this section;

(8) to interfere with, delay, or prevent, by any means, the apprehension, arrest, or detection of another person, knowing that such person has committed any act prohibited by this section;

(9) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any living marine resource taken or retained in violation of this title or any regulation or permit issued under this title; or

(10) to violate any provision of this title or any regulation or permit issued under this title.

SEC. 107. ENFORCEMENT PROVISIONS.

(a) DUTIES OF SECRETARIES.—This title shall be enforced by the Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may by agreement utilize, on a reimbursable basis or otherwise, the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency, or of any State agency, in the performance of such duties. Such Secretaries shall, and the head of any Federal or State agency that has entered into an agreement with either such Secretary under this section may (if the agreement so provides), authorize officers to enforce the provisions of this title or any regulation or permit issued under this title.

(b) DISTRICT COURT JURISDICTION.—The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this title. In the case of Guam, and any Commonwealth, territory, or possession of the United States in the Pacific Ocean, the appropriate court is the United States District Court for the District of Guam, except that in the case of American Samoa, the appropriate court is the United States District Court for the District of Hawaii.

(c) POWERS OF ENFORCEMENT OFFICERS.—

(1) Any officer who is authorized under subsection (a) to enforce the provisions of this title may—

(A) with or without a warrant or other process—

(i) arrest any person, if the officer has reasonable cause to believe that such person has committed an act prohibited by paragraph (6), (7), (8), or (9) of section 106;

(ii) board, and search or inspect, any high seas fishing vessel;

(iii) seize any high seas fishing vessel (together with its fishing gear, furniture, appurtenances, stores, and cargo) used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, the violation of any provision of this title or any regulation or permit issued under this title;

(iv) seize any living marine resource (wherever found) taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 106;

(v) seize any other evidence related to any violation of any provision of this title or any regulation or permit issued under this title;

(B) execute any warrant or other process issued by any court of competent jurisdiction; and

(C) exercise any other lawful authority.

(2) Subject to the direction of the Secretary, a person charged with law enforcement responsibilities by the Secretary who is performing a duty related to enforcement of a law regarding fisheries or other marine resources may make an arrest without a warrant for an offense against the United States committed in his presence, or for a felony cognizable under the laws of the United States, if he has reasonable grounds to believe that the person to be arrested has committed or is committing a felony.

(d) ISSUANCE OF CITATIONS.—If any authorized officer finds that a high seas fishing vessel is operating or has been operated in violation of any provision of this title, such officer may issue a citation to the owner or operator of such vessel in lieu of proceeding under subsection (c). If a permit has been issued pursuant to this title for such vessel,

such officer shall note the issuance of any citation under this subsection, including the date thereof and the reason therefor, on the permit. The Secretary shall maintain a record of all citations issued pursuant to this subsection.

(e) LIABILITY FOR COSTS.—Any person assessed a civil penalty for, or convicted of, any violation of this Act shall be liable for the cost incurred in storage, care, and maintenance of any living marine resource or other property seized in connection with the violation.

SEC. 108. CIVIL PENALTIES AND PERMIT SANCTIONS.

(a) CIVIL PENALTIES.—

(1) Any person who is found by the Secretary, after notice and opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 106 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $100,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violation, the degree of culpability, any history of prior offenses, and such other matters as justice may require.

(2) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty that is subject to imposition or that has been imposed under this section.

(b) PERMIT SANCTIONS.—

(1) In any case in which—

(A) a vessel of the United States has been used in the commission of an act prohibited under section 106;

(B) the owner or operator of a vessel or any other person who has been issued or has applied for a permit under section 104 has acted in violation of section 106; or

(C) any amount in settlement of a civil forfeiture imposed on a high seas fishing vessel or other property, or any civil penalty or criminal fine imposed on a high seas fishing vessel or on an owner or operator of such a vessel or on any other person who has been issued or has applied for a permit under any fishery resource statute enforced by the Secretary, has not been paid and is overdue, the Secretary may—

(i) revoke any permit issued to or applied for by such vessel or person under this title, with or without prejudice to the issuance of subsequent permits;

(ii) suspend such permit for a period of time considered by the Secretary to be appropriate;

(iii) deny such permit; or

(iv) impose additional conditions and restrictions on such permit.

(2) In imposing a sanction under this subsection, the Secretary shall take into account—

(A) the nature, circumstances, extent, and gravity of the prohibited acts for which the sanction is imposed; and

(B) with respect to the violator, the degree of culpability, any history of prior offenses, and such other matters as justice may require.

(3) Transfer of ownership of a high seas fishing vessel, by sale or otherwise, shall not extinguish any permit sanction that is in effect or is pending at the , and Mr. @ time of transfer of ownership. Before executing the transfer of ownership of a vessel, by sale or otherwise, the owner shall disclose in writing to the prospective transferee the existence of any permit sanction that will be in effect or pending with respect to the vessel at the time of the transfer. The Secretary may waive or compromise a sanction in the case of a transfer pursuant to court order.

(4) In the case of any permit that is suspended under this subsection for nonpayment of a civil penalty or criminal fine, the Secretary shall reinstate the permit upon payment of the penalty or fine and interest thereon at the prevailing rate.

(5) No sanctions shall be imposed under this subsection unless there has been prior opportunity for a hearing on the facts underlying the violation for which the sanction is imposed, either in conjunction with a civil penalty proceeding under this section or otherwise.

(c) HEARING.—For the purposes of conducting any hearing under this section, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpoena served upon any person pursuant to this subsection, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(d) JUDICIAL REVIEW.—Any person against whom a civil penalty is assessed under subsection (a) or against whose vessel a permit sanction is imposed under subsection (b) (other than a permit suspension for nonpayment of penalty or fine) may obtain review thereof in the United States district court for the appropriate district by filing a complaint against the Secretary in such court within 30 days from the date of such penalty or sanction. The Secretary shall promptly file in such court a certified copy of the record upon which such penalty or sanction was imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Secretary shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

(e) COLLECTION.—

(1) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the matter shall be referred to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(2) A high seas fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used in the commission of an act prohibited by section 106 shall be liable in rem for any civil penalty assessed for such violation under subsection (a) and may be proceeded against in any district court of the United States having jurisdiction thereof. Such penalty shall constitute a maritime lien on such vessel that may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

SEC. 109. CRIMINAL OFFENSES.

(a) OFFENSES.—A person is guilty of an offense if the person commits any act prohibited by paragraph (6), (7), (8), or (9) of section 106.

(b) PUNISHMENT.—Any offense described in subsection (a) is a class A misdemeanor punishable by a fine under title 18, United States Code, or imprisonment for not more than one year, or both; except that if in the commission of any offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any authorized officer, or places any such officer in fear of imminent bodily injury, the offense is a felony punishable by a fine under title 18, United States Code, or imprisonment for not more than 10 years, or both.

SEC. 110. FORFEITURES.

(a) IN GENERAL.—Any high seas fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used, and any living marine resources (or the fair market value thereof) taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 106 (other than an act for which the issuance of a citation under section 107 is a sufficient sanction) shall be subject to forfeiture to the United States. All or part of such vessel may, and all such living marine resources (or the fair market value thereof) shall, be forfeited to the United States pursuant to a civil proceeding under this section.

(b) JURISDICTION OF DISTRICT COURTS.—Any district court of the United States shall have jurisdiction, upon application of the Attorney General on behalf of the United States, to order any forfeiture authorized under subsection (a) and any action provided for under subsection (d).

(c) JUDGMENT.—If a judgment is entered for the United States in a civil forfeiture proceeding under this section, the Attorney General may seize any property or other interest declared forfeited to the United States, which has not previously been seized pursuant to this title or for which security has not previously been obtained. The provisions of the customs laws relating to—

(1) the seizure, forfeiture, and condemnation of property for violation of the customs law;

(2) the disposition of such property or the proceeds from the sale thereof; and

(3) the remission or mitigation of any such forfeiture;

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this title, unless such provisions are inconsistent with the purposes, policy, and provisions of this title.

(d) PROCEDURE.—

(1) Any officer authorized to serve any process in rem that is issued by a court under section 107(b) shall—

(A) stay the execution of such process; or

(B) discharge any living marine resources seized pursuant to such process;

upon receipt of a satisfactory bond or other security from any person claiming such property. Such bond or other security shall be conditioned upon such person delivering such property to the appropriate court upon order thereof, without any impairment of its value, or paying the monetary value of such property pursuant to an order of such court. Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court.

(2) Any living marine resources seized pursuant to this title may be sold, subject to the approval of the appropriate court, for not less than the fair market value thereof. The proceeds of any such sale shall be deposited with such court pending the disposition of the matter involved.

(e) REBUTTABLE PRESUMPTION.—For purposes of this section, all living marine resources found on board a high seas fishing

vessel and which are seized in connection with an act prohibited by section 106 are presumed to have been taken or retained in violation of this title, but the presumption can be rebutted by an appropriate showing of evidence to the contrary.

SEC. 111. EFFECTIVE DATE.

This title shall take effect 120 days after the date of enactment of this Act.

TITLE II—IMPLEMENTATION OF CONVENTION ON FUTURE MULTILATERAL COOPERATION IN THE NORTHWEST ATLANTIC FISHERIES

SEC. 201. SHORT TITLE.

This title may be cited as the ''Northwest Atlantic Fisheries Convention Act of 1995''.

SEC. 202. REPRESENTATION OF UNITED STATES UNDER CONVENTION.

(a) COMMISSIONERS.—

(1) APPOINTMENTS, GENERALLY.—The Secretary shall appoint not more than 3 individuals to serve as the representatives of the United States on the General Council and the Fisheries Commission, who shall each—

(A) be known as a ''United States Commissioner to the Northwest Atlantic Fisheries Organization''; and

(B) serve at the pleasure of the Secretary.

(2) REQUIREMENTS FOR APPOINTMENTS.—

(A) The Secretary shall ensure that of the individuals serving as Commissioners—

(i) at least 1 is appointed from among representatives of the commercial fishing industry;

(ii) 1 (but no more than 1) is an official of the Government; and

(iii) 1, other than the individual appointed under clause (ii), is a voting member of the New England Fishery Management Council.

(B) The Secretary may not appoint as a Commissioner an individual unless the individual is knowledgeable and experienced concerning the fishery resources to which the Convention applies.

(3) TERMS.—

(A) The term of an individual appointed as a Commissioner—

(i) shall be specified by the Secretary at the time of appointment; and

(ii) may not exceed 4 years.

(B) An individual who is not a Government official may not serve more than 2 consecutive terms as a Commissioner.

(b) ALTERNATE COMMISSIONERS.—

(1) APPOINTMENT.—The Secretary may, for any anticipated absence of a duly appointed Commissioner at a meeting of the General Council or the Fisheries Commission, designate an individual to serve as an Alternate Commissioner.

(2) FUNCTIONS.—An Alternate Commissioner may exercise all powers and perform all duties of the Commissioner for whom the Alternate Commissioner is designated, at any meeting of the General Council or the Fisheries Commission for which the Alternate Commissioner is designated.

(c) REPRESENTATIVES.—

(1) APPOINTMENT.—The Secretary shall appoint not more than 3 individuals to serve as the representatives of the United States on the Scientific Council, who shall each be known as a ''United States Representative to the Northwest Atlantic Fisheries Organization Scientific Council''.

(2) ELIGIBILITY FOR APPOINTMENT.—

(A) The Secretary may not appoint an individual as a Representative unless the individual is knowledgeable and experienced concerning the scientific issues dealt with by the Scientific Council.

(B) The Secretary shall appoint as a Representative at least 1 individual who is an official of the Government.

(3) TERM.—An individual appointed as a Representative—

(A) shall serve for a term of not to exceed 4 years, as specified by the Secretary at the time of appointment;

(B) may be reappointed; and

(C) shall serve at the pleasure of the Secretary.

(d) ALTERNATE REPRESENTATIVES.—

(1) APPOINTMENT.—The Secretary may, for any anticipated absence of a duly appointed Representative at a meeting of the Scientific Council, designate an individual to serve as an Alternate Representative.

(2) FUNCTIONS.—An Alternate Representative may exercise all powers and perform all duties of the Representative for whom the Alternate Representative is designated, at any meeting of the Scientific Council for which the Alternate Representative is designated.

(e) EXPERTS AND ADVISERS.—The Commissioners, Alternate Commissioners, Representatives, and Alternate Representatives may be accompanied at meetings of the Organization by experts and advisers.

(f) COORDINATION AND CONSULTATION.—

(1) IN GENERAL.—In carrying out their functions under the Convention, Commissioners, Alternate Commissioners, Representatives, and Alternate Representatives shall—

(A) coordinate with the appropriate Regional Fishery Management Councils established by section 302 of the Magnuson Act (16 U.S.C. 1852); and

(B) consult with the committee established under section 208.

(2) RELATIONSHIP TO OTHER LAW.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to coordination and consultations under this subsection.

SEC. 203. REQUESTS FOR SCIENTIFIC ADVICE.

(a) RESTRICTION.—The Representatives may not make a request or specification described in subsection (b)(1) or (2), respectively, unless the Representatives have first—

(1) consulted with the appropriate Regional Fishery Management Councils; and

(2) received the consent of the Commissioners for that action.

(b) REQUESTS AND TERMS OF REFERENCE DESCRIBED.—The requests and specifications referred to in subsection (a) are, respectively—

(1) any request, under Article VII(1) of the Convention, that the Scientific Council consider and report on a question pertaining to the scientific basis for the management and conservation of fishery resources in waters under the jurisdiction of the United States within the Convention Area; and

(2) any specification, under Article VIII(2) of the Convention, of the terms of reference for the consideration of a question referred to the Scientific Council pursuant to Article VII(1) of the Convention.

SEC. 204. AUTHORITIES OF SECRETARY OF STATE WITH RESPECT TO CONVENTION.

The Secretary of State may, on behalf of the Government of the United States—

(1) receive and transmit reports, requests, recommendations, proposals, and other communications of and to the Organization and its subsidiary organs;

(2) object, or withdraw an objection, to the proposal of the Fisheries Commission;

(3) give or withdraw notice of intent not to be bound by a measure of the Fisheries Commission;

(4) object or withdraw an objection to an amendment to the Convention; and

(5) act upon, or refer to any other appropriate authority, any other communication referred to in paragraph (1).

SEC. 205. INTERAGENCY COOPERATION.

(a) AUTHORITIES OF SECRETARY.—In carrying out the provisions of the Convention and this title, the Secretary may arrange for cooperation with other agencies of the United States, the States, the New England and the Mid-Atlantic Fishery Management Councils, and private institutions and organizations.

(b) OTHER AGENCIES.—The head of any Federal agency may—

(1) cooperate in the conduct of scientific and other programs, and furnish facilities and personnel, for the purposes of assisting the Organization in carrying out its duties under the Convention; and

(2) accept reimbursement from the Organization for providing such services, facilities, and personnel.

SEC. 206. RULEMAKING.

The Secretary shall promulgate regulations as may be necessary to carry out the purposes and objectives of the Convention and this title. Any such regulation may be made applicable, as necessary, to all persons and all vessels subject to the jurisdiction of the United States, wherever located.

SEC. 207. PROHIBITED ACTS AND PENALTIES.

(a) PROHIBITION.—It is unlawful for any person or vessel that is subject to the jurisdiction of the United States—

(1) to violate any regulation issued under this title or any measure that is legally binding on the United States under the Convention;

(2) to refuse to permit any authorized enforcement officer to board a fishing vessel that is subject to the person's control for purposes of conducting any search or inspection in connection with the enforcement of this title, any regulation issued under this title, or any measure that is legally binding on the United States under the Convention;

(3) forcibly to assault, resist, oppose, impede, intimidate, or interfere with any authorized enforcement officer in the conduct of any search or inspection described in paragraph (2);

(4) to resist a lawful arrest for any act prohibited by this section;

(5) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of this section; or

(6) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that the other person has committed an act prohibited by this section.

(b) CIVIL PENALTY.—Any person who commits any act that is unlawful under subsection (a) shall be liable to the United States for a civil penalty, or may be subject to a permit sanction, under section 308 of the Magnuson Act (16 U.S.C. 1858).

(c) CRIMINAL PENALTY.—Any person who commits an act that is unlawful under paragraph (2), (3), (4), or (6) of subsection (a) shall be guilty of an offense punishable under section 309(b) of the Magnuson Act (16 U.S.C. 1859(b)).

(d) CIVIL FORFEITURES.—

(1) IN GENERAL.—Any vessel (including its gear, furniture, appurtenances, stores, and cargo) used in the commission of an act that is unlawful under subsection (a), and any fish (or the fair market value thereof) taken or retained, in any manner, in connection with or as a result of the commission of any act that is unlawful under subsection (a), shall be subject to seizure and forfeiture as provided in section 310 of the Magnuson Act (16 U.S.C. 1860).

(2) DISPOSAL OF FISH.—Any fish seized pursuant to this title may be disposed of pursuant to the order of a court of competent jurisdiction or, if perishable, in a manner prescribed by regulations issued by the Secretary.

(e) ENFORCEMENT.—The Secretary and the Secretary of the department in which the Coast Guard is operating shall enforce the provisions of this title and shall have the authority specified in sections 311(a), (b)(1), and (c) of the Magnuson Act (16 U.S.C. 1861(a), (b)(1), and (c)) for that purpose.

(f) JURISDICTION OF COURTS.—The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under this section and may, at any time—

(1) enter restraining orders or prohibitions;

(2) issue warrants, process in rem, or other process;

(3) prescribe and accept satisfactory bonds or other security; and

(4) take such other actions as are in the interests of justice.

SEC. 208. CONSULTATIVE COMMITTEE.

(a) ESTABLISHMENT.—The Secretary of State and the Secretary, shall jointly establish a consultative committee to advise the Secretaries on issues related to the Convention.

(b) MEMBERSHIP.—

(1) The membership of the Committee shall include representatives from the New England and Mid-Atlantic Fishery Management Councils, the States represented on those Councils, the Atlantic States Marine Fisheries Commission, the fishing industry, the seafood processing industry, and others knowledgeable and experienced in the conservation and management of fisheries in the Northwest Atlantic Ocean.

(2) TERMS AND REAPPOINTMENT.—Each member of the consultative committee shall serve for a term of two years and shall be eligible for reappointment.

(c) DUTIES OF THE COMMITTEE.—Members of the consultative committee may attend—

(1) all public meetings of the General Council or the Fisheries Commission;

(2) any other meetings to which they are invited by the General Council or the Fisheries Commission; and

(3) all nonexecutive meetings of the United States Commissioners.

(d) RELATIONSHIP TO OTHER LAW.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the consultative committee established under this section.

SEC. 209. ADMINISTRATIVE MATTERS.

(a) PROHIBITION ON COMPENSATION.—A person shall not receive any compensation from the Government by reason of any service of the person as—

(1) a Commissioner, Alternate Commissioner, Representative, or Alternative Representative;

(2) an expert or adviser authorized under section 202(e); or

(3) a member of the consultative committee established by section 208.

(b) TRAVEL AND EXPENSES.—The Secretary of State shall, subject to the availability of appropriations, pay all necessary travel and other expenses of persons described in subsection (a)(1) and of not more than six experts and advisers authorized under section 202(e) with respect to their actual performance of their official duties pursuant to this title, in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code.

(c) STATUS AS FEDERAL EMPLOYEES.—A person shall not be considered to be a Federal employee by reason of any service of the person in a capacity described in subsection (a), except for purposes of injury compensation and tort claims liability under chapter 81 of title 5, United States Code, and chapter 17 of title 28, United States Code, respectively.

SEC. 210. DEFINITIONS.

In this title the following definitions apply:

(1) AUTHORIZED ENFORCEMENT OFFICER.—The term ''authorized enforcement officer'' means a person authorized to enforce this title, any regulation issued under this title, or any measure that is legally binding on the United States under the Convention.

(2) COMMISSIONER.—The term ''Commissioner'' means a United States Commissioner to the Northwest Atlantic Fisheries Organization appointed under section 202(a).

(3) CONVENTION.—The term ''Convention'' means the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries, done at Ottawa on October 24, 1978.

(4) FISHERIES COMMISSION.—The term ''Fisheries Commission'' means the Fisheries Commission provided for by Articles II, XI, XII, XIII, and XIV of the Convention.

(5) GENERAL COUNCIL.—The term ''General Council'' means the General Council provided for by Article II, III, IV, and V of the Convention.

(6) MAGNUSON ACT.—The term ''Magnuson Act'' means the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(7) ORGANIZATION.—The term ''Organization'' means the Northwest Atlantic Fisheries Organization provided for by Article II of the Convention.

(8) PERSON.—The term ''person'' means any individual (whether or not a citizen or national of the United States), and any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State).

(9) REPRESENTATIVE.—The term ''Representative'' means a United States Representative to the Northwest Atlantic Fisheries Scientific Council appointed under section 202(c).

(10) SCIENTIFIC COUNCIL.—The term ''Scientific Council'' means the Scientific Council provided for by Articles II, VI, VII, VIII, IX, and X of the Convention.

(11) SECRETARY.—The term ''Secretary'' means the Secretary of Commerce.

SEC. 211. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title, including use for payment as the United States contribution to the Organization as provided in Article XVI of the Convention, $500,000 for each of the fiscal years 1995, 1996, 1997, and 1998.

TITLE III—ATLANTIC TUNAS CONVENTION ACT

SEC. 301. SHORT TITLE.

This title may be cited as the ''Atlantic Tunas Convention Authorization Act of 1995''.

SEC. 302. RESEARCH AND MONITORING ACTIVITIES.

(a) REPORT TO CONGRESS.—The Secretary of Commerce shall, within 90 days after the date of enactment of this Act, submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives—

(1) identifying current governmental and nongovernmental research and monitoring activities on Atlantic bluefin tuna and other highly migratory species;

(2) describing the personnel and budgetary resources allocated to such activities; and

(3) explaining how each activity contributes to the conservation and management of Atlantic bluefin tuna and other highly migratory species.

(b) RESEARCH AND MONITORING PROGRAM.—Section 3 of the Act of September 4, 1980 (16 U.S.C. 971i) is amended—

(1) by amending the section heading to read as follows:

''SEC. 3. RESEARCH ON ATLANTIC HIGHLY MIGRATORY SPECIES.'';

(2) by striking the last sentence;

(3) by inserting ''(a) BIENNIAL REPORT ON BLUEFIN TUNA.—'' before ''The Secretary of Commerce shall''; and

(4) by adding at the end the following:

''(b) HIGHLY MIGRATORY SPECIES RESEARCH AND MONITORING.—

''(1) Within 6 months after the date of enactment of the Atlantic Tunas Convention Authorization Act of 1995, the Secretary of Commerce, in cooperation with the advisory committee established under section 4 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971b) and in consultation with the United States Commissioners on the International Commission for the Conservation of Atlantic Tunas (referred to elsewhere in this section as the 'Commission') and the Secretary of State, shall develop and implement a comprehensive research and monitoring program to support the conservation and management of Atlantic bluefin tuna and other highly migratory species that shall—

''(A) identify and define the range of stocks of highly migratory species in the Atlantic Ocean, including Atlantic bluefin tuna; and

''(B) provide for appropriate participation by nations which are members of the Commission.

''(2) The program shall provide for, but not be limited to—

''(A) statistically designed cooperative tagging studies;

''(B) genetic and biochemical stock analyses;

''(C) population censuses carried out through aerial surveys of fishing grounds and known migration areas;

''(D) adequate observer coverage and port sampling of commercial and recreational fishing activity;

''(E) collection of comparable real-time data on commercial and recreational catches and landings through the use of permits, logbooks, landing reports for charter operations and fishing tournaments, and programs to provide reliable reporting of the catch by private anglers;

''(F) studies of the life history parameters of Atlantic bluefin tuna and other highly migratory species;

''(G) integration of data from all sources and the preparation of data bases to support management decisions; and

''(H) other research as necessary.

''(3) In developing a program under this section, the Secretary shall—

''(A) ensure that personnel and resources of each regional research center shall have substantial participation in the stock assessments and monitoring of highly migratory species that occur in the region;

''(B) provide for comparable monitoring of all United States fishermen to which the Atlantic Tunas Convention Act applies with respect to effort and species composition of catch and discards;

''(C) consult with relevant Federal and State agencies, scientific and technical experts, commercial and recreational fishermen, and other interested persons, public and private, and shall publish a proposed plan in the Federal Register for the purpose of receiving public comment on the plan; and

''(D) through the Secretary of State, encourage other member nations to adopt a similar program.''.

SEC. 303. DEFINITIONS.

Section 2 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971) is amended—

(1) by designating paragraphs (3) through (10) as (4) through (110, respectively, and inserting after paragraph (2) the following;

''(3) The term 'conservation recommendation' means any recommendation of the Commission made pursuant to article VIII of the Convention and acted upon favorably by the Secretary of State under section 5(a) of this Act.'';

(2) by striking paragraph (5), as redesignated, and inserting the following:

''(4) The term 'exclusive economic zone' means an exclusive economic zone as defined in section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802).''; and

(3) by striking ''fisheries zone'' wherever it appears in the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971 et seq.) and inserting ''exclusive economic zone''.

SEC. 304. ADVISORY COMMITTEE PROCEDURES.

Section 4 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971b) is amended—

(1) by inserting ''(a)'' before ''There''; and

(2) by adding at the end the following:

''(b)(1) A majority of the members of the advisory committee shall constitute a quorum, but one or more such members designated by the advisory committee may hold meetings to provide for public participation and to discuss measures relating to the United States implementation of Commission recommendations.

''(2) The advisory committee shall elect a Chairman for a 2-year term from among its members.

''(3) The advisory committee shall meet at appropriate times and places at least twice a year, at the call of the Chairman or upon the request of the majority of its voting members, the United States Commissioners, the Secretary, or the Secretary of State. Meetings of the advisory committee, except when in executive session, shall be open to the public, and prior notice of meetings shall be made public in a timely fashion.

''(4)(A) The Secretary shall provide to the advisory committee in a timely manner such administrative and technical support services as are necessary for the effective functioning of the committee.

''(B) The Secretary and the Secretary of State shall furnish the advisory committee with relevant information concerning fisheries and international fishery agreements.

''(5) The advisory committee shall determine its organization, and prescribe its practices and procedures for carrying out its functions under this Act, the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), and the Convention. The advisory committee shall publish and make available to the public a statement of its organization, practices, and procedures.

''(6) The advisory committee shall, to the maximum extent practicable, consist of an equitable balance among the various groups concerned with the fisheries covered by the Convention and shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).''.

SEC. 305. REGULATIONS AND ENFORCEMENT OF CONVENTION.

Section 6(c) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971d(c)) is amended—

(1) by inserting ''AND OTHER MEASURES'' after ''REGULATIONS'' in the section caption;

(2) by inserting ''or fishing mortality level'' after ''quota of fish'' in the last sentence of paragraph (3); and

(3) by inserting the following after paragraph (5):

''(6) IDENTIFICATION AND NOTIFICATION.—

''(A) Not later than July 1, 1996, and annually thereafter, the Secretary, in consultation with the Secretary of State, the Commissioners, and the advisory committee, shall—

''(i) identify those nations whose fishing vessels are fishing, or have fished during the preceding calendar year, within the convention area in a manner or under circumstances that diminish the effectiveness of a conservation recommendation;

''(ii) notify the President and the nation so identified, including an explanation of the reasons therefor; and

''(iii) publish a list of those Nations identified under subparagraph (A).

In identifying those Nations, the Secretary shall consider, based on the best available information, whether those Nations have measures in place for reporting, monitoring, and enforcement, and whether those measures diminish the effectiveness of any conservation recommendation.

''(7) CONSULTATION.—Not later than 30 days after a Nation is notified under paragraph (6), the President may enter into consultations with the government of that Nation for the purpose of obtaining an agreement that will—

''(A) effect the immediate termination and prevent the resumption of any fishing operation by vessels of that Nation within the Convention area which is conducted in a manner or under circumstances that diminish the effectiveness of the conservation recommendation;

''(B) when practicable, require actions by that Nation, or vessels of that Nation, to mitigate the negative impacts of fishing operations on the effectiveness of the conservation recommendation involved, including but not limited to, the imposition of subsequent-year deductions for quota overages; and

''(C) result in the establishment, if necessary, by such nation of reporting, monitoring, and enforcement measures that are adequate to ensure the effectiveness of conservation recommendations.''.

SEC. 306. FINES AND PERMIT SANCTIONS.

Section 7(e) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971(e)) is amended to read as follows:

''(e) The civil penalty and permit sanctions of section 308 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1858) are hereby made applicable to violations of this section as if they were violations of section 307 of that Act.''.

SEC. 307. AUTHORIZATION OF APPROPRIATIONS.

Section 10 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971h) is amended to read as follows:

''AUTHORIZATION OF APPROPRIATIONS

''SEC. 10. There are authorized to be appropriated to carry out this Act, including use for payment of the United States share of the joint expenses of the Commission as provided in article X of the Convention, the following sums:

''(1) For fiscal year 1995, $4,103,000, of which $50,000 are authorized in the aggregate for the advisory committee established under section 4 and the species working groups established under section 4A, and $2,890,000 are authorized for research activities under this Act and the Act of September 4, 1980 (16 U.S.C. 971i).

''(2) For fiscal year 1996, $5,453,000, of which $50,000 are authorized in the aggregate for such advisory committee and such working groups, and $4,240,000 are authorized for such research activities.

''(3) For fiscal year 1997, $5,465,000 of which $62,000 are authorized in the aggregate for such advisory committee and such working groups, and $4,240,000 are authorized for such research activities.''.

''(4) For fiscal year 1998, $5,465,000 of which $75,000 are authorized in the aggregate for such advisory committee and such working groups, and $4,240,000 are authorized for such research activities.''.

SEC. 308. REPORT AND SAVINGS CLAUSE.

The Atlantic Tuna Convention Act of 1975 (16 U.S.C. 971 et seq.) is amended by adding at the end thereof the following:

''§ 11. Annual report

''Not later than April 1, 1996, and annually thereafter, the Secretary shall prepare and transmit to the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report, that—

''(1) details for the previous 10-year period the catches and exports to the United States of highly migratory species (including tunas, swordfish, marlin and sharks) from nations fishing on Atlantic stocks of such species that are subject to management by the Commission;

''(2) identifies those fishing nations whose harvests are inconsistent with conservation and management recommendations of the Commission;

''(3) describes reporting requirements established by the Secretary to ensure that imported fish products are in compliance with all international management measures, including minimum size requirements, established by the Commission and other international fishery organizations to which the United States is a party; and

''(4) describes actions taken by the Secretary under section 6.

''§ 12. Savings clause

''Nothing in this Act shall have the effect of diminishing the rights and obligations of any Nation under Article VIII(3) of the Convention.''.

SEC. 309. MANAGEMENT OF ATLANTIC YELLOWFIN TUNA.

(a) Not later than 90 days after the date of the enactment of this act, the Secretary of Commerce in accordance with this section shall publish a preliminary determination of the level of the United States recreational and commer cial catch of Atlantic yellowfin tuna on an annual basis since 1980. The Secretary shall publish a preliminary determination in the Federal Register for comment for a period not to exceed 60 days. The Secretary shall publish a final determination not later than 140 days from the date of the enactment of this section.

(b) Not later than July 1, 1996, the Secretary of Commerce shall implement the recommendations of International Commission for the Conservation of Atlantic Tunas regarding yellowfin tuna made pursuant to article VIII of the International Convention for the Conservation of Atlantic Tunas and acted upon favorably by the Secretary of State under section 5(a) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971c(a)).

SEC. 310. STUDY OF BLUEFIN TUNA REGULATIONS.

Not later than 270 days after the date of enactment of this Act, the Secretary of Commerce shall submit to the Committee on Commerce, Science and Transportation of the Senate and to the Committee on Resources of the House of Representatives a report on the historic rationale, effectiveness, and biological and economic efficiency of existing bluefin tuna regulations for United States Atlantic fisheries. Specifically, the biological rationale for each regional and category allocation, including directed and incidental categories, should be described in light of the average size, age, and maturity of bluefin tuna caught in each fishery and the effect of this harvest on stock rebuilding and sustainable yield. The report should examine the history and evaluate the level of wasteful discarding, and evaluate the effectiveness of non-quota regulations at constraining harvests within regions. Further, comments should be provided on levels of participation in specific fisheries in terms of vessels and trips, enforcement implications, and the importance of monitoring information provided by these allocations on the precision of the stock assessment estimates.

SEC. 311. SENSE OF THE CONGRESS WITH RESPECT TO ICCAT NEGOTIATIONS.

(a) SHARING OF CONSERVATION BURDEN.—It is the sense of the Congress that in future negotiations of the International Commission for the Conservation of Atlantic Tunas (hereafter in this section referred to as ''ICATT''), the Secretary of Commerce shall

ensure that the conservation actions recommended by international commissions and implemented by the Secretary for United States commercial and recreational fishermen provide fair and equitable sharing of the conservation burden among all contracting harvesters in negotiations with those commissions.

(b) ENFORCEMENT PROVISIONS.—It is further the sense of the Congress that, during 1995 ICCAT negotiations on swordfish and other Highly Migratory Species managed by ICCAT, the Congress encourages the United States Commissioners to add enforcement provisions similar to those applicable to bluefin tuna.

(c) ENHANCED MONITORING.—It is further the sense of the Congress that the National Oceanic and Atmospheric Administration and the United States Customs Service should enhance monitoring activities to ascertain what specific stocks are being imported into the United States and the country of origin.

(d) MULTILATERAL ENFORCEMENT PROCESS.—It is further the sense of the Congress that the United States Commissioners should pursue as a priority the establishment and implementation prior to December 31, 1996, an effective multilateral process that will enable ICCAT nations to enforce the conservation recommendations of the Commission.

TITLE IV—FISHERMEN'S PROTECTIVE ACT

SEC. 401. FINDINGS.

The Congress finds that—

(1) customary international law and the United Nations Convention on the Law of the Sea guarantee the right of passage, including innocent passage, to vessels through the waters commonly referred to as the ''Inside Passage'' off the Pacific Coast of Canada;

(2) in 1994 Canada required all commercial fishing vessels of the United States to pay 1,500 Canadian dollars to obtain a ''license which authorizes transit'' through the Inside Passage;

(3) this action was inconsistent with international law, including the United Nations Convention on the Law of the Sea, and, in particular, Article 26 of that Convention, which specifically prohibits such fees, and threatened the safety of United States commercial fishermen who sought to avoid the fee by traveling in less protected waters;

(4) the Fishermen's Protective Act of 1967 provides for the reimbursement of vessel owners who are forced to pay a license fee to secure the release of a vessel which has been seized, but does not permit reimbursement of a fee paid by the owner in advance in order to prevent a seizure;

(5) Canada required that the license fee be paid in person in 2 ports on the Pacific Coast of Canada, or in advance by mail;

(6) significant expense and delay was incurred by commercial fishing vessels of the United States that had to travel from the point of seizure back to one of those ports in order to pay the license fee required by Canada, and the costs of that travel and delay cannot be reimbursed under the Fishermen's Protective Act;

(7) the Fishermen's Protective Act of 1967 should be amended to permit vessel owners to be reimbursed for fees required by a foreign government to be paid in advance in order to navigate in the waters of that foreign country if the United States considers that fee to be inconsistent with international law;

(8) the Secretary of State should seek to recover from Canada any amounts paid by the United States to reimburse vessel owners who paid the transit license fee;

(9) the United States should review its current policy with respect to anchorage by commercial fishing vessels of Canada in waters of the United States off Alaska, including waters in and near the Dixon Entrance, and should accord such vessels the same treatment that commercial fishing vessels of the United States are accorded for anchorage in the waters of Canada off British Columbia;

(10) the President should ensure that, consistent with international law, the United States Coast Guard has available adequate resources in the Pacific Northwest and Alaska to provide for the safety of United States citizens, the enforcement of United States law, and to protect the rights of the United States and keep the peace among vessels operating in disputed waters;

(11) the President should continue to review all agreements between the United States and Canada to identify other actions that may be taken to convince Canada that any reinstatement of the transit license fee would be against Canada's long-term interests, and should immediately implement any actions which the President deems appropriate if Canada reinstates the fee;

(12) the President should continue to convey to Canada in the strongest terms that the United States will not now, nor at any time in the future, tolerate any action by Canada which would impede or otherwise restrict the right of passage of vessels of the United States in a manner inconsistent with international law; and

(13) the United States should continue its efforts to seek expeditious agreement with Canada on appropriate fishery conservation and management measures that can be implemented through the Pacific Salmon Treaty to address issues of mutual concern.

SEC. 402. AMENDMENT TO THE FISHERMEN'S PROTECTIVE ACT OF 1967.

(a) The Fishermen's Protective Act 1967 (22 U.S.C. 1971 et seq.) is amended by adding at the end the following new section:

''Sec. 11. (a) In any case on or after June 15, 1994, in which a vessel of the United States exercising its right of passage is charged a fee by the government of a foreign country to engage in transit passage between points in the United States (including a point in the exclusive economic zone or in an area over which jurisdiction is in dispute), and such fee is regarded by the United States as being inconsistent with international law, the Secretary of State shall, subject to the availability of appropriated funds, reimburse the vessel owner for the amount of any such fee paid under protest.

''(b) In seeking such reimbursement, the vessel owner shall provide, together with such other information as the Secretary of State may require—

''(1) a copy of the receipt for payment;

''(2) an affidavit attesting that the owner or the owner's agent paid the fee under protest; and

''(3) a copy of the vessel's certificate of documentation.

''(c) Requests for reimbursement shall be made to the Secretary of State within 120 days after the date of payment of the fee, or within 90 days after the date of enactment of this section, whichever is later.

''(d) Such funds as may be necessary to meet the requirements of this section may be made available from the unobligated balance of previously appropriated funds remaining in the Fishermen's Protective Fund established under section 9. To the extent that requests for reimbursement under this section exceed such funds, there are authorized to be appropriated such sums as may be needed for reimbursements authorized under subsection (a), which shall be deposited in the Fishermen's Protective Fund established under section 9.

''(e) The Secretary of State shall take such action as the Secretary deems appropriate to make and collect claims against the foreign country imposing such fee for any amounts reimbursed under this section.

''(f) For purposes of this section, the term 'owner' includes any charterer of a vessel of the United States.''.

(b) The Fishermen's Protective Act of 1967 (22 U.S.C. 1971 et seq.) is further amended by adding at the end the following:

''Sec. 12. (a) If the Secretary of State finds that the government of any nation imposes conditions on the operation or transit of United States fishing vessels which the United States regards as being inconsistent with international law or an international agreement, the Secretary of State shall certify that fact to the President.

''(b) Upon receipt of a certification under subsection (a), the President shall direct the heads of Federal agencies to impose similar conditions on the operation or transit of fishing vessels registered under the laws of the nation which has imposed conditions on United States fishing vessels.

''(c) For the purposes of this section, the term 'fishing vessel' has the meaning given that term in section 2101(11a) of title 46, United States Code.

''(d) It is the sense of the Congress that any action taken by any Federal agency under subsection (b) should be commensurate with any conditions certified by the Secretary of State under subsection (a).''.

(c) Notwithstanding any other provision of law, the Secretary of State shall reimburse the owner of any vessel of the United States for costs incurred due to the seizure of such vessel in 1994 by Canada on the basis of a claim to jurisdiction over sedentary species which was not recognized by the United States at the time of such seizure. Any such reimbursable under section 3 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1973), legal fees and travel costs incurred by the owner of any such vessel that were necessary to secure the prompt release of the vessel and crew. Total reimbursements under this subsection may not exceed $25,000 and may be made available from the unobligated balances of previously appropriated funds remaining in the Fishermen's Protective Fund established under section 9 of the Fishermen's Protective Act (22 U.S.C. 1979).

SEC. 403. Reauthorization.

(a) Section 7(c) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(c)) is amended by striking the third sentence.

(b) Section 7(e) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(e)) is amended by striking ''October 1, 1993'' and inserting ''October 1, 2000''.

SEC. 404. TECHNICAL CORRECTIONS.

(a)(1) Section 15(a) of Public Law 103–238 is amended by striking ''April 1, 1994,'' and inserting ''May 1, 1994.''.

(2) The amendment made by paragraph (1) shall be effective on and after April 30, 1994.

(b) Section 803(13)(C) of Public Law 102–567 (16 U.S.C. 5002(13)(C)) is amended to read as follows:

''(C) any vessel supporting a vessel described in subparagraph (A) or (B).''.

TITLE V—FISHERIES ENFORCEMENT IN CENTRAL SEA OF OKHOTSK

SEC. 501. SHORT TITLE.

This title may be cited as the ''Sea of Okhotsk Fisheries Enforcement Act of 1995''.

SEC. 502. FISHING PROHIBITION.

(a) ADDITION OF CENTRAL SEA OF OKHOTSK.—Section 302 of the Central Bering Sea Fisheries Enforcement Act of 1992 (16 U.S.C. 1823 note) is amended by inserting ''and the Central Sea of Okhotsk'' after ''Central Bering Sea''.

(b) DEFINITION.—Section 306 of such Act is amended—

(1) by redesignating paragraphs (2), (3), (4), (5), and (6) as paragraphs (3), (4), (5), (6), and (7), respectively; and

(2) by inserting after paragraph (1) the following:

''(2) Central Sea of Okhotsk.—The term 'Central Sea of Okhotsk' means the central Sea of Okhotsk area which is more than two hundred nautical miles seaward of the baseline from which the breadth of the territorial sea of the Russian Federation is measured.''.

TITLE VI—DRIFTNET MORATORIUM

SEC. 601. SHORT TITLE.

This title may be cited as the ''High Seas Driftnet Fishing Moratorium Protection Act''.

SEC. 602. FINDINGS.

The Congress finds that—

(1) Congress has enacted and the President has signed into law numerous Acts to control or prohibit large-scale driftnet fishing both within the jurisdiction of the United States and beyond the exclusion economic zone of any nation, including the Driftnet Impacting Monitoring, Assessment, and Control Act of 1987 (Title IV, P.L. 100–220), the Driftnet Act Amendments of 1990 (P.L. 101–627), and the High Seas Driftnet Fisheries Enforcement Act (Title I, P.L. 102–582);

(2) the United States is a party to the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific, also known as the Wellington Convention;

(3) the General Assembly of the United Nations has adopted three resolutions and three decisions which established and reaffirm a global moratorium on large-scale driftnet fishing on the high seas, beginning with Resolution 44/225 in 1989 and most recently in Decision 48/445 in 1993;

(4) the General Assembly of the United Nations adopted these resolutions and decisions at the request of the United States and other concerned nations;

(5) the best scientific information demonstrates the wastefulness and potentially destructive impacts of large-scale driftnet fishing on living marine resources and seabirds; and

(6) Resolution 46/215 of the United Nations General Assembly calls on all nations, both individually and collectively, to prevent large-scale driftnet fishing on the high seas.

SEC. 603. PROHIBITION.

The United States, or any agency or official acting on behalf of the United States, may not enter into any international agreement with respect to the conservation and management of living marine resources or the use of the high seas by fishing vessels that would prevent full implementation of the global moratorium on large-scale driftnet fishing on the high seas, as such moratorium is expressed in Resolution 46/215 of the United Nations General Assembly.

SEC. 604. NEGOTIATIONS.

The Secretary of State, on behalf of the United States, shall seek to enhance the implementation and effectiveness of the United Nations General Assembly resolutions and decisions regarding the moratorium on large-scale driftnet fishing on the high seas through appropriate international agreements and organizations.

SEC. 605. CERTIFICATION.

The Secretary of State shall determine in writing prior to the signing or provisional application by the United States of any international agreement with respect to the conservation and management of living marine resources or the use of the high seas by fishing vessels that the prohibition contained in section 603 will not be violated if such agreement is signed or provisionally applied.

SEC. 606. ENFORCEMENT.

The President shall utilize appropriate assets of the Department of Defense, the United States Coast Guard, and other Federal agencies to detect, monitor, and prevent violations of the United Nations moratorium on large-scale driftnet fishing on the high seas for all fisheries under the jurisdiction of the United States and, in the case of fisheries not under the jurisdiction of the United States, to the fullest extent permitted under international law.

TITLE VII—YUKON RIVER SALMON ACT

SEC. 701. SHORT TITLE.

This title may be cited as the ''Yukon River Salmon Act of 1995''.

SEC. 702. PURPOSES.

It is the purpose of this title—

(1) to implement the interim agreement for the conservation of salmon stocks originating from the Yukon River in Canada agreed to through an exchange of notes between the Government of United States and the Government of Canada on February 3, 1995:

(2) to provide for representation by the United States on the Yukon River Panel established under such agreement; and

(3) to authorize to be appropriated sums necessary to carry out the responsibilities of the United States under such agreement.

SEC. 703. DEFINITIONS.

As used in this title—

(1) The term ''Agreement'' means the interim agreement for the conservation of salmon stocks originating from the Yukon River in Canada agreed to through an exchange of notes between the Government of the United States and the Government of Canada on February 3, 1995.

(2) The term ''Panel'' means the Yukon River Panel established by the Agreement.

(3) The term ''Yukon River Joint Technical Committee'' means the technical committee established by paragraph C.2 of the Memorandum of Understanding concerning the Pacific Salmon Treaty between the Government of the United States and the Government of Canada recorded January 28, 1985.

SEC. 704. PANEL.

(a) REPRESENTATION.—The United States shall be represented on the Panel by six individuals, of whom—

(1) one shall be an official of the United States Government with expertise in salmon conservation and management;

(2) one shall be an official of the State of Alaska with expertise in salmon conservation and management; and

(3) four shall be knowledgeable and experienced with regard to the salmon fisheries on the Yukon River.

(b) APPOINTMENTS.—Panel members shall be appointed as follows:

(1) The Panel member described in subsection (a)(1) shall be appointed by the Secretary of State.

(2) The Panel member described in subsection (a)(2) shall be appointed by the Governor of Alaska.

(3) The Panel members described in subsection (a)(3) shall be appointed by the Secretary of State from a list of at least 3 individuals nominated for each position by the Governor of Alaska. The Governor of Alaska may consider suggestions for nominations provided by organizations with expertise in Yukon River salmon fisheries. The Governor of Alaska may make appropriate nominations to allow for, and the Secretary of State shall appoint, at least one member use subsection (a)(3) who is qualified to represent the interests of Lower Yukon River fishing districts, and at least one member who is qualified to represent the interests of Upper Yukon River fishing district. At least one of the Panel members under subsection (a)(3) shall be an Alaska Native.

(c) ALTERNATES.—The Secretary of State may designate an alternate Panel member for each Panel member the Secretary appoints under subsections (b)(1) and (3), who meets the same qualifications, to serve in the absence of the Panel member. The Governor of the State of Alaska may designate an alternative Panel member for the Panel member appointed under subsection (b)(2), who meets the same qualifications, to serve in the absence of that Panel member.

(d) TERM LENGTH.—Panel members and alternate Panel members shall serve four-year terms. Any individual appointed to fill a vacancy occurring before the expiration of any term shall be appointed for the remainder of that term.

(e) REAPPOINTMENT.—Panel members and alternate Panel members shall be eligible for reappointment.

(f) DECISIONS.—Decisions by the United States section of the Panel shall be made by the consensus of the Panel members appointed under paragraphs (2) and (3) of subsection (a).

(g) CONSULTATION.—In carrying out their functions under the Agreement, Panel members may consult with such other interested parties as they consider appropriate.

SEC. 705. ADVISORY COMMITTEE.

(a) APPOINTMENTS.—The Governor of Alaska may appoint an Advisory Committee of not less than eight, but not more than twelve, individuals who are knowledgeable and experienced with regard to the salmon fisheries on the Yukon River. At least 2 of the Advisory Committee members shall be Alaska Natives. Members of the Advisory Committee may attend all meetings of the United States section of the Panel, and shall be given the opportunity to examine and be heard on any matter under consideration by the United States section of the Panel.

(b) COMPENSATION.—The members of such advisory committee shall receive no compensation for their services.

(c) TERM LENGTH.—Advisory Committee members shall serve two-year terms. Any individual appointed to fill a vacancy occurring before the expiration of any term shall be appointed for the remainder of that term.

(d) REAPPOINTMENT.—Advisory Committee members shall be eligible for reappointment.

SEC. 706. EXEMPTION.

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Panel, the Yukon River Joint Technical Committee, or the Advisory Committee created under section 705 of this title.

SEC. 707. AUTHORITY AND RESPONSIBILITY.

(A) RESPONSIBLE MANAGEMENT ENTITY.—The State of Alaska Department of Fish and Game shall be the responsible management entity for the United States for the purposes of the Agreement.

(b) EFFECT OF DESIGNATION.—The designation under subsection (a) shall not be considered to expand, diminish, or change the management authority of the State of Alaska or the Federal government with respect to fishery resources.

(c) RECOMMENDATIONS OF PANEL.—In addition to recommendations made by the Panel to the responsible management entities in accordance with the Agreement, the Panel may make recommendations concerning the conservation and management of salmon originating in the Yukon River to the Department of Interior, Department of Commerce, Department of State, North Pacific Fishery Management Council, and other Federal or State entities as appropriate. Recommendations by the Panel shall be advisory in nature.

SEC. 708. CONTINUATION OF AGREEMENT.

In the event that the Treaty between Canada and the United States of America concerning Pacific Salmon, signed at Ottawa,

January 28, 1985, terminates prior to the termination of the Agreement, and the functions of the Panel are assumed by the ''Yukon River Salmon Commission'' referenced in the Agreement, the provisions of this title which apply to the Panel shall thereafter apply to the Yukon River Salmon Commission, and the other provisions of this title shall remain in effect.

SEC. 709. ADMINISTRATIVE MATTERS.

(a) Panel members and alternate Panel members who are not State or Federal employees shall receive compensation at the daily rate of GS–15 of the General Schedule when engaged in the actual performance of duties.

(b) Travel and other necessary expenses shall be paid for all Panel members, alternate Panel members, United States members of the Joint Technical Committee, and members of the Advisory Committee when engaged in the actual performance of duties.

(c) Except for officials of the United States Government, individuals described in subsection (b) shall not be considered to be Federal employees while engaged in the actual performance of duties, except for the purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 71 of title 28, United States Code.

SEC. 710. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $4,000,000 for each fiscal year for carrying out the purposes and provisions of the Agreement and this title including—

(1) necessary travel expenses of Panel members, alternate Panel members, United States members of the Joint Technical Committee, and members of the Advisory Committee in accordance with Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code;

(2) the United States share of the joint expenses of the Panel and the Joint Technical Committee, provided that Panel members and alternate Panel members shall not, with respect to commitments concerning the United States share of the joint expenses, be subject to section 262(b) of title 22, United States Code, insofar as it limits the authority of United States representatives to international organizations with respect to such commitments;

(3) not more than $3,000,000 for each fiscal year to the Department of the Interior and to the Department of Commerce for survey, restoration, and enhancement activities related to Yukon River salmon; and

(4) $400,000 in each of fiscal years 1996, 1997, 1998, and 1999 to be contributed to the Yukon River Restoration and Enhancement Fund and used in accordance with the Agreement.

TITLE VIII—MISCELLANEOUS

SEC. 801. SOUTH PACIFIC TUNA AMENDMENT.

Section 9 of the South Pacific Tuna Act of 1988 (16 U.S.C. 973g) is amended by adding at the end thereof the following:

''(h) Notwithstanding the requirements of—

''(1) section 1 of the Act of August 26, 1983 (97 Stat. 587; 46 U.S.C. 12108);

''(2) the general permit issued on December 1, 1980, to the American Tunaboat Association under section 104(h)(1) of the Marine Mammal Protection Act (16 U.S.C. 1374(h)(1)); and

''(3) sections 104(h)(2) and 306(a) of the Marine Mammal Protection Act (16 U.S.C. 1374(h)(2) and 1416(a))—

any vessel documented under the laws of the United States as of the date of enactment of the Fisheries Act of 1995 for which a license has been issued under subsection (a) may fish for tuna in the Treaty Area, including those waters subject to the jurisdiction of the United States in accordance with international law, subject to the provisions of the treaty and this Act, provided that no such vessel fishing in the Treaty Area intentionally deploys a purse seine net to encircle any dolphin or other marine mammal in the course of fishing under the provisions of the Treaty or this Act.''.

SEC. 802. FOREIGN FISHING FOR ATLANTIC HERRING AND ATLANTIC MACKEREL.

Notwithstanding any other provision of law—

(1) no allocation may be made to any foreign nation or vessel under section 201 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) in any fishery for which there is not a fishery management plan implemented in accordance with that Act; and

(2) the Secretary of Commerce may not approve the portion of any permit application submitted under section 204(b) of the Act which proposes fishing by a foreign vessel for Atlantic mackerel or Atlantic herring unless—

(A) the appropriate regional fishery management council recommends under section 204(b)(5) of that Act that the Secretary approve such fishing, and

(B) the Secretary of Commerce includes in the permit any conditions or restrictions recommended by the appropriate regional fishery management council with respect to such fishing.

THE ANAKTUVUK PASS LAND EXCHANGE AND WILDERNESS REDESIGNATION ACT OF 1995

MURKOSWKI (AND BREAUX) AMENDMENT NO. 1489

Mr. DOLE (for Mr. MURKOWSKI, for himself, and Mr. BREAUX) proposed an amendment to the bill (H.R. 400) to provide for the exchange of lands within Gates of the Arctic National Park and Preserve, and for other purposes; as follows:

On page 12 of the reported measure, beginning on line 13, delete all of Title II and insert in lieu thereof the following:

TITLE II—ALASKA PENINSULA SUBSURFACE CONSOLIDATION

SEC. 201. DEFINITIONS.

As used in this Act:

(1) AGENCY.—The term agency—

(A) means—

(i) any instrumentality of the United States; and

(ii) any Government corporation (as defined in section 9101(1) of title 31 United States Code); and

(B) includes any element of an agency.

(2) ALASKA NATIVE CORPORATION.—The term ''Alaska Native Corporation'' has the same meaning as is provided for ''Native Corporation'' in section 3(m) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(m)).

(3) FEDERAL LANDS OR INTEREST THEREIN—The term ''Federal lands or interests therein'' means any lands or properties owned by the United States (i) which are administered by the Secretary, or (ii) which are subject to a lease to third parties, or (iii) which have been made available to the Secretary for exchange under this section through the concurrence of the director of the agency administering such lands or properties; provided, however, excluded from such lands shall be those lands which are within an existing conservation system unit as defined in section 102(4) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(4)), and those lands the mineral interest for which are currently under mineral lease.

(4) KONIAG.—The term ''Koniag'' means Koniag, Incorporated, which is a Regional Corporation.

(5) REGIONAL CORPORATION.—The term ''Regional Corporation'' has the same meaning as is provided in section 3(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(g)).

(6) SECRETARY.—Except as otherwise provided, the term ''Secretary'' means the Secretary of the Interior.

(7) SELECTION RIGHTS.—The term ''selection rights'' means those rights granted to Koniag, pursuant to subsections (a) and (b) of section 12, and section 14(h)(8), of the Alaska Native Claims Settlement Act (43 U.S.C. 1611 and 1613(h)(8)), to receive title to the oil and gas rights and other interests in the subsurface estate of the approximately 275,000 acres of public lands in the State of Alaska identified as ''Koniag Selections'' on the map entitled ''Koniag Interest Lands, Alaska Peninsula,'' dated May 1989.

SEC. 202. VALUATION OF KONIAG SELECTION RIGHTS.

(a) Pursuant to the provisions of subsection (b) hereof, the Secretary shall value the selection rights which Koniag possesses within the boundaries of Aniakchak National Monument and Preserve, Alaska Peninsula National Wildlife Refuge, and Becharof National Wildlife Refuge.

(b) VALUE.—

(1) IN GENERAL.—The value of the selection rights shall be equal to the fair market value of—

(A) the oil and gas interests in the lands or interests in lands that are the subject of the selection rights; and

(B) in the case of the lands or interests in lands for which Koniag is to receive the entire subsurface estate, the subsurface estate of the lands or interests in lands that are the subject of the selection rights.

(2) APPRAISAL.—

(A) SELECTION OF APPRAISER.—

(i) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary and Koniag shall meet to select a qualified appraiser to conduct an appraisal of the selection rights. Subject to clause (ii), the appraiser shall be selected by the mutual agreement of the Secretary and Koniag.

(ii) FAILURE TO AGREE.—If the Secretary and Koniag fail to agree on an appraiser by the date that is 60 days after the date of the initial meeting referred to in clause (i), the Secretary and Koniag shall, by the date that is not later than 90 days after the date of the initial meeting, each designate an appraiser who is qualified to perform the appraisal. The 2 appraisers so identified shall select a third qualified appraiser who shall perform the appraisal.

(B) STANDARDS AND METHODOLOGY.—The appraisal shall be conducted in conformity with the standards of the Appraisal Foundation (as defined in section 1121(9) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3350(9)).

(C) SUBMISSION OF APPRAISAL REPORT.—Not later than 180 days after the selection of an appraiser pursuant to subparagraph (A), the appraiser shall submit to the Secretary and to Koniag a written appraisal report specifying the value of the selection rights and the methodology used to arrive at the value.

(3) DETERMINATION OF VALUE.—

(A) DETERMINATION BY THE SECRETARY.—Not later than 60 days after the date of the receipt of the appraisal report under paragraph (2)(C), the Secretary shall determine the value of the selection rights and shall notify Koniag of the determination.

(B) ALTERNATIVE DETERMINATION OF VALUE.—

(i) IN GENERAL.—Subject to clause (ii), if Koniag does not agree with the value determined by the Secretary under subparagraph (A), the procedures specified in section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)) shall be used to establish the value.

(ii) AVERAGE VALUE LIMITATION.—The average value per acre of the selection rights shall not be less than the value utilizing the risk adjusted discount cash flow methodology, but in no event may exceed $300.

SEC. 203. KONIAG EXCHANGE.

(a) IN GENERAL.—

(1) The Secretary shall enter into negotiations for an agreement or agreements to exchange Federal lands or interests therein which are in the State of Alaska for the selection rights.

(2) if the value of the federal property to be exchanged is less than the value of the selection rights established in Section 202, and if such federal property to be exchanged is not generating receipts to the federal government in excess of one million dollars per year, than the Secretary may exchange the federal property for that portion of the selection rights having a value equal to that of the federal property. The remaining selection rights shall remain available for additional exchanges.

(3) For the purposes of any exchange to be consummated under this Title II, if less than all of the selection rights are being exchanged, then the value of the selection rights being exchanged shall be equal to the number of acres of selection rights being exchanged multiplied by a fraction, the numerator of which is the value of all the selection rights as determined pursuant to Section 202 hereof and the denominator of which is the total number of acres of selection rights.

(b) ADDITIONAL EXCHANGES.—If, after ten years from the date of enactment of this Act, the Secretary has been unable to conclude such exchanges as may be required to acquire all of the selection rights, he shall conclude exchanges for the remaining selection rights for such federal property as may be identified by Koniag, which property is available for transfer to the administrative jurisdiction of the Secretary under any provision of law and which property, at the time of the proposed transfer to Koniag is not generating receipts to the federal government in excess of one million dollars per year. The Secretary shall keep Koniag advised in a timely manner as to which properties may be available for such transfer. Upon receipt of such identification by Koniag, the Secretary shall request in a timely manner the transfer of such identified property to the administrative jurisdiction of the Department of the Interior. Such property shall not be subject to the geographic limitations of section 206(b) of the Federal Land Policy and Management Act and may be retained by the Secretary solely for the purposes of transferring it to Koniag to complete the exchange. Should the value of the property so identified by Koniag be in excess of the value of the remaining selection rights, then Koniag shall have the option of (i) declining to proceed with the exchange and identifying other property or (ii) paying the difference in value between the property rights.

(c) REVENUES.—Any property received by Koniag in an exchange entered into pursuant to subsection (a) or (b) of this section shall be deemed to be an interest in the subsurface for purposes of section 7(i) of the Alaska Native Claims Settlement Act (43 U.S.C. 1601, *et seq.*); provided, however, should Koniag make a payment to equalize the value in any such exchange, then Koniag will be deemed to hold an undivided interest in the property equal in value to such payment which interest shall not be subject to the provisions of section 9(j).

SEC. 204. CERTAIN CONVEYANCES.

(a) INTERESTS IN LAND.—For the purposes of section 21(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1620(e)), the receipt of consideration, including, but not limited to, lands, cash or other property, by a Native Corporation for the relinquishment to the United States of land selection rights granted to any Native Corporation under such Act shall be deemed to be an interest in land.

(b) AUTHORITY TO APPOINT AND REMOVE TRUSTEE.—In establishing a Settlement Trust under section 39 of such Act (43 U.S.C. 1629c), Koniag may delegate, in whole or part, the authority granted to Koniag under subsection (b)(2) of such section to any entity that Koniag may select without affecting the status of the trust as a Settlement Trust under such section.

TITLE III—STERLING FOREST

SECTION 301. SHORT TITLE.

This title may be cited as the ''Sterling Forest Protection Act of 1995''.

SEC. 302. FINDINGS.

The Congress finds that—

(1) the Palisades Interstate Park Commission was established pursuant to a joint resolution of the 75th Congress approved in 1937 (Public Resolution No. 65; ch. 706; 50 Stat. 719), and chapter 170 of the Laws of 1937 of the State of New York and chapter 148 of the Laws of 1937 of the State of New Jersey;

(2) the Palisades Interstate Park Commission is responsible for the management of 23 parks and historic sites in New York and New Jersey, comprising over 82,000 acres;

(3) over 8,000,000 visitors annually seek outdoor recreational opportunities within the Palisades Park System;

(4) Sterling Forest is a biologically diverse open space on the New Jersey border comprising approximately 17,500 acres, and is a highly significant watershed area for the State of New Jersey, providing the source for clean drinking water for 25 percent of the State;

(5) Sterling Forest is an important outdoor recreational asset in the northeastern United States, within the most densely populated metropolitan region in the Nation;

(6) Sterling Forest supports a mixture of hardwood forests, wetlands, lakes, glaciated valleys, is strategically located on a wildlife migratory route, and provides important habitat for 27 rare or endangered species;

(7) the protection of Sterling Forest would greatly enhance the Appalachian National Scenic Trail, a portion of which passes through Sterling Forest, and would provide for enhanced recreational opportunities through the protection of lands which are an integral element of the trail and which would protect important trail viewsheds;

(8) stewardship and management costs for units of the Palisades Park System are paid for by the States of New York and New Jersey; thus, the protection of Sterling Forest through the Palisades Interstate Park Commission will involve a minimum of Federal funds;

(9) given the nationally significant watershed, outdoor recreational, and wildlife qualities of Sterling Forest, the demand for open space in the northeastern United States, and the lack of open space in the densely populated tri-state region, there is a clear Federal interest in acquiring the Sterling forest for permanent protection of the watershed, outdoor recreational resources, flora and fauna, and open space; and

(10) such an acquisition would represent a cost effective investment, as compared with the costs that would be incurred to protect drinking water for the region should the Sterling Forest be developed.

SEC. 303. PURPOSES.

The purposes of this Title are—

(1) to establish the Sterling Forest Reserve in the State of New York to protect the significant watershed, wildlife, and recreational resources within the New York-New Jersey highlands region;

(2) to authorize Federal funding, through the Department of the Interior, for a portion of the acquisition costs for the Sterling Forest Reserve;

(3) to direct the Palisades Interstate Park Commission to convey to the Secretary of the Interior certain interests in lands acquired within the Reserve; and

(4) to provide for the management of the Sterling Forest Reserve by the Palisades Interstate Park Commission.

SEC. 304 DEFINITIONS.

In this Title.

(1) COMMISSION.—The term ''Commission'' means the Palisades Interstate Park Commission established pursuant to Public Resolution No. 65 approved August 19, 1937 (ch. 707; 50 Stat. 719).

(2) RESERVE.—The term ''Reserve'' means the Sterling Forest Reserve.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 305. ESTABLISHMENT OF THE STERLING FOREST RESERVE.

(A) ESTABLISHMENT.—Upon the certification by the Commission to the Secretary that the Commission has acquired sufficient lands or interests therein to constitute a manageable unit, there is established the Sterling Forest Reserve in the State of New York.

(b) MAP.—

(1) COMPOSITION.—The Reserve shall consist of lands and interests therein acquired by the Commission with the approximately 17,500 acres of lands as generally depicted on the map entitled ''Boundary Map, Sterling Forest Reserve'', numbered SFR–60,001 and dated July 1, 1994.

(2) AVAILABILITY FOR PUBLIC INSPECTION.—The map described in paragraph (1) shall be on file and available for public inspection in the offices of the Commission and the appropriate offices of the National Park Service.

(c) TRANSFER OF FUNDS.—Subject to subjection (d), the Secretary shall transfer to the Commission such funds as are appropriated for the acquisition of lands and interests therein within the Reserve.

(d) CONDITIONS OF FUNDING.—

(1) AGREEMENT BY THE COMMISSION.—Prior to the receipt of any Federal funds authorized by this Act, the Commission shall agree to the following:

(A) CONVEYANCE OF LANDS IN EVENT OF FAILURE TO MANAGE.—If the Commission fails to manage the lands acquired within the Reserve in a manner that is consistent with this title, the Commission shall convey fee title to such lands to the United States, and the agreement stated in this subparagraph shall be recorded at the time of purchase of all lands acquired within the Reserve.

(B) CONSENT OF OWNERS.—No lands or interest in land may be acquired with any Federal funds authorized or transferred pursuant to this title except with the consent of the owner of the land or interest in land.

(C) INABILITY TO ACQUIRE LANDS.—If the Commission is unable to acquire all of the lands within the Reserve, to the extent Federal funds are utilized pursuant to this title, the Commission shall acquire all or a portion of the lands identified as ''National Park Service Wilderness Easement Lands'' and ''National Park Service Conservation Easement Lands'' on the map described in section 305(b) before proceeding with the acquisition of any other lands within the Reserve.

(D) CONVEYANCE OF EASEMENT.—Within 30 days after acquiring any of the lands identified as ''National Park Service Wilderness Easement Lands'' 29 and ''National Park Service Conservation Easement Lands'' on the map described in section 305(b), the Commission shall convey to the United States—

(i) conservation easements on the lands described as ''National Park Service Wilderness Easement Lands'' on the map described in section 305(b), which easements shall provide that the lands shall be managed to protect their wilderness character; and

(ii) conservation easements on the lands described as ''National Park Service Conservation Easement Lands'' on the map described in section 305(b), which easements shall restrict and limit development and use of the property to that development and use that is—

(I) compatible with the protection of the Appalachian National Scenic Trail; and

(II) consistent with the general management plan prepared pursuant to section 306(b).

(2) MATCHING FUNDS.—Funds may be transferred to the Commission only to the extent that they are matched from funds contributed by non-Federal sources.

SEC. 306. MANAGEMENT OF THE RESERVE.

(a) IN GENERAL.—The Commission shall manage the lands acquired within the Reserve in a manner that is consistent with the Commission's authorities and with the purposes of this title.

(b) GENERAL MANAGEMENT PLAN.—Within 3 years after the date of enactment of this title, the Commission shall prepare a general management plan for the Reserve and submit the plan to the Secretary for approval.

SEC. 307. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this title, to remain available until expended.

(b) LAND ACQUISITION.—Of amounts appropriated pursuant to subsection (a), the Secretary may transfer to the Commission not more than $17,500,000 for the acquisition of lands and interests in land within the Reserve.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, June 30, 1995, at 10:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

CONGRATULATIONS TO DANNY McDONNALL

● Mr. BROWN. Mr. President, I rise to congratulate Danny McDonnall of Lamar, CO, for winning a $10,000 Discover Card Tribute Award scholarship. The scholarship, sponsored by Discover Card Services, Inc., in cooperation with the American Association of School Administrators, are awarded to outstanding high school juniors in the United States.

Danny attends Lamar High School and is 1 of the 9 national winners selected from over 10,000 nominations nationwide. His academic achievement recently earned him his school's Most Outstanding Sophomore Boy Award. However, the scholarship program recognizes that not every student's accomplishments can be measured in grade points alone. Achievements in community service, leadership, special talents, unique endeavors, and obstacles overcome are also considered.

Danny is an active member in several student organizations and is an accomplished vocalist. He has performed in three school musicals, with an honor choir and with the National 4–H Choir. He created a Wildlife Club for young people and coordinated a shooting sports safety day attended by more than 60 local sportsmen.

But most impressive is Danny's fight against Ewing's sarcoma. His recovery inspired him to present an hour long wildlife program to 450 cancer patients in Denver's Children's Hospital and to develop a newsletter and games which he regularly sends to hospitalized children. In addition, he conducted a 3-year science project centered on treatments for chemotherapy-induced mouth sores. Danny intends to study biology in college, and hopes to become a dentist.

Thank you Discover Card Services, Inc., for making a strong commitment to helping our young people reach their dreams and be better prepared for the challenges of tomorrow. Congratulations, once again, to Danny McDonnall. We can all learn from his superb leadership and fortitude.●

AN IMPORTANT STEP FOR DEMOCRACY IN HAITI

● Mr. LEAHY. Mr. President, last Sunday, the Republic of Haiti held parliamentary and local elections. These were the first elections in Haiti since the United States forced Raoul Cedras and his henchmen to abandon power and allow the return of democratically elected President Jean-Bertrand Aristide last fall.

These elections were the first test of President Aristide's commitment to establish real democracy in Haiti, and they were watched closely by the international community.

Mr. President, the elections were far from perfect. The selection of candidates leading up to the election was not as open, well-organized, and impartial as many of us would have liked. Some voting stations opened late. Some station workers were not paid their promised salaries and did not execute their responsibilities conscientiously. Some voters were not given full privacy in voting and there were some reports of voter intimidation. Some ballots were lost or miscounted.

These irregularities were unfortunate, although given Haiti's tragic history, not unexpected. But the fact that these elections were imperfect in no way confirms, as some would suggest, that President Aristide and his government are insincere in their expressions of commitment to true democracy, or that the administration's policy there has failed. Far from it.

Let us be realistic. Haiti is the poorest country in this hemisphere. So many people are illiterate that the ballots had to carry symbols to identify the different parties. Many villages cannot be reached by road at all. The only highway across the country is literally impassible except by 4-wheel-drive. Most of the people have had no experience at all with democracy and have only the vaguest notion of what it means and how it should work.

In a country like Haiti today, the conduct of elections cannot possibly be perfect. Some mistakes and malpractice are inevitable.

But one must start somewhere, and the fact that these elections were held at all is an important achievement. Even more important, indeed historic, is that fact that there was practically no violence. We should remember past elections in that country, where the Government and its armed thugs intimidated, beat, and murdered in cold blood people waiting in line to vote.

The real question, Mr. President, is whether the Haitian people are satisfied. My perception is that the vast majority of the Haitian people feel that they took an important step forward with this election, and one more step away from the atrocities of the past. We owe it to those people now to help them get to work on the next step.

I want to commend President Clinton, General Shalikashvili, who has been to Haiti many times over the past couple of years, Secretary Christopher and others, who had the patience and sense of history to devote the attention and effort that they have to the cause of democracy in Haiti.

In a hemisphere where the trend is decidedly in favor of elected civilian government, I do not believe the United States could ignore the brutality in Haiti. Our resolve there in support of the Haitian people's yearning for a better life, has sent a strong signal in support of democratic government throughout the hemisphere.●

NOMINATION OF DR. HENRY FOSTER TO BE SURGEON GENERAL

● Mr. ABRAHAM. Mr. President, last week the Senate conducted two cloture votes on the nomination of Dr. Henry Foster to be Surgeon General of the United States. As a member of the Senate Committee on Labor and Human Resources, I was already on record in opposition to the nomination. However, for the benefit of my colleagues and my constituents, I wanted to once again outline my reasons for opposing Dr. Foster and why I voted against cloture.

At the outset of this nomination, I chose to reserve final judgment on Dr. Foster's qualifications to serve as Surgeon General until he had an opportunity to appear before the Labor Committee and address my concerns and

the concerns of other Senators and until I had an opportunity to review the entire record.

After careful thought and consideration during the Labor Committee's deliberations, I decided that I could not support Dr. Foster's nomination. I came to this conclusion for three reasons: First, I have serious doubts about whether Dr. Foster can unify the American people behind important national health policies. Second, I am troubled about where Dr. Foster comes down on the continuum which places parents' rights and responsibilities on one end and the State on the other. And third, I believe serious credibility questions regarding this nomination continued to exist. And for reasons I shall elaborate upon later, I ultimately came to believe that in this instance, extended debate of this nomination was necessary and appropriate.

Now let me just add that Dr. Foster obviously is dedicated to serving others. He tended the health care needs of thousands of poor, rural women in the still segregated Deep South of the late 1960's and early 1970's. He taught at and helped run a historically black medical school which provides 40 percent of the black doctors in America. And he helped the youth of Nashville bridge the sometimes cavernous gap between a life of poverty and a life of education, economic advancement and social accomplishment. In all these endeavors, Dr. Foster has exhibited the finest qualities of civic duty and selfless public service. On that basis alone, one has to admire him. Nevertheless, in each of the areas I cited earlier, Dr. Foster was unable to allay my concerns.

Mr. President, the first concern I have relates to what I perceive as this nominee's inability to serve as a unifier, bringing Americans together behind key public health principles. I have repeatedly expressed my worry regarding Dr. Foster's suitability to replace Dr. Joycelyn Elders. Given the extremely turbulent and divisive nature of Dr. Elders' service as Surgeon General, it came somewhat as a shock to me—and I think to many others as well—that the administration would select someone to replace her whose background would create anxiety among many Americans. I have never felt that Dr. Foster's background as an ob-gyn or his pro-choice views disqualify him for serving as Surgeon General. However, I believe that the fact that Dr. Foster personally has performed abortions creates a different sort of burden on his nomination.

Dr. Foster has said that he wants to be seen as the Nation's doctor, but his past actions will cause many Americans to shrink from thinking of him in that role. This would not matter if the position involved were managerial or technical; but it is not.

The Surgeon General's role is almost exclusively that of a public educator. He has a bully pulpit that must be used to bring Americans together behind improved medical and health practices. As I have said, following our experience with Dr. Elders, I think most Americans believe we should find someone for this position who can serve as a unifying force on the critical health care issues confronting or Nation. I was concerned that, because of his past practices, many would not at first blush choose Dr. Foster to be their physician. Therefore, at the confirmation hearings I asked Dr. Foster how he would try to restore this confidence in his ability to serve as the Nation's doctor and how he would do it. Regrettably, Dr. Foster could not seem to relate to this request; his response bordered on the dismissive.

Mr. President, I did not expect Dr. Foster to change his views. But I did expect, or at least hope, that he would have a plan to unify people and reach out to those who—at the outset—were worried about his selection, but he did not. Indeed, he did not offer a single idea concerning how he might address his challenge—not speeches, not meetings, nothing. I feel in a position as sensitive as this we need someone who would work hard to bring people together. Dr. Foster offered no commitment or dedication to pursue such an objective. I believe that was a mistake.

Mr. President, this brings me to another area of concern that I have specifically expressed from the outset: I have been worried about where Dr. Foster comes down on the continuum which places parents' rights and responsibilities on one end and the State on the other. Traveling throughout Michigan during my campaign I repeatedly heard parents strongly express two messages: They were concerned about the breakdown of the family unit and the consequences they viewed as emanating from that trend: teenage pregnancy, drug and alcohol abuse, and crime. And they were concerned about the degree to which Government's attempts to solve these problems, often exacerbating them in the process, pushed more traditional support systems such as families, relatives, and community out of the equation.

Now I realize that some will say this is a little old-fashioned in the generation X world of post-modern morality, but I want the Federal Government's chief health spokesman out in front on this issue, leading the fight to involve parents more directly in their children's lives and resisting further Government usurpation of parents' responsibilities. Regrettably, Dr. Foster's actions and positions have led me to conclude that he could not fulfill this role.

For example, Dr. Foster stated during the hearing that he opposed laws requiring parental notification when contraceptives are provided to minors. And Dr. Foster has a history of opposition to parental consent laws in the case of minors seeking an abortion, even those with judicial bypass provisions.

Mr. President, I share Dr. Foster's view on the importance of preventing teen pregnancy, and on other crucial health and social issues as well. Where I believe we differ is on the level of responsibility we think parents should have in these areas and the steps each of us is prepared to take to achieve parental involvement. The question is: Would Dr. Foster, as Surgeon General, throw the moral authority of his office behind such initiatives?

By most accounts, Dr. Joycelyn Elders dismissed parents altogether from playing any role in the sexual education and development of their children. Dr. Foster, it appears, believes that parental involvement is something to be desired and encouraged, but because of the positions he has taken and will presumably continue to advocate, he will send a different, contradictory signal.

We need a Surgeon General who recognizes that parents must become very involved and will take positions that are consistent with that philosophy.

Mr. President, the final concern I have, and the one which not only leads me to oppose this nomination but to vote against cutting off debate, is the issue of Dr. Foster's credibility. In order to succeed, a surgeon general requires one asset above all others: utmost credibility. But Dr. Foster's credibility has been seriously compromised in several ways. A major credibility problem arose from Dr. Foster's stewardship of the ''I Have a Future'' Program. When announcing the selection of Dr. Foster as his nominee, President Clinton spoke of the doctor's work in this program and its emphasis on reducing teen pregnancy. The President cited these as primary reasons for selecting Dr. Foster. The H.H.S. press release sent out that same day stated, ''The program stresses abstinence * * *.''

Dr. Foster himself, during a February 8 ''Nightline'' broadcast, proclaimed, ''I favor abstinence. Abstinence, that's what I favor. That's the bedrock of our program.'' But there has been no concrete evidence presented to support that assertion.

It came as a great surprise to everyone on the committee, I think, when neither the administration, the nominee, nor the ''I Have A Future'' Program could produce the much-heralded abstinence brochures supposedly distributed during Dr. Foster's service as director. Nor was any other evidence forthcoming that abstinence was the bedrock principle of the program.

After repeated requests to the administration and to Dr. Foster for those materials, the only abstinence brochures which were ever produced were those which Senator DODD distributed at the hearing. And, as everybody knows, those brochures turned out to have been published earlier this year—long after Dr. Foster had ended his direct supervision of the ''I Have A Future'' Program. There are other reasons to doubt assertions that the ''I Have A Future'' Program had abstinence as its ''bedrock'' principle.

In an article written by Dr. Foster and two of his colleagues for the summer 1990 issue of the ''Journal of Health Care for the Poor and Underserved,'' entitled ''A Model for Increasing Access: Teenage Pregnancy Prevention,'' the authors clearly stated that the ''I Have A Future'' Program places considerable emphasis on widespread distribution of contraceptives to teenagers. This article and other ''I Have A Future'' materials make clear that reducing pregnancy among sexually active teens was the primary focus of the program, not promoting abstinence.

Mr. President, I find it difficult to believe that Dr. Foster and the administration would fail to provide documentation for their crucial claim, that abstinence was the dominant feature of the program, if such documentation existed. Considering the emphasis placed by Dr. Foster and the administration on the role abstinence and the ''I Have A Future'' Program played in this nomination, this was a devastating revelation and comment on the credibility of the nomination. The critical question here to me was not whether abstinence was the ''bedrock'' principle behind the program. What I found most disturbing was the apparent attempt to deceive people regarding the degree to which the program was based upon abstinence. Another credibility problem, Mr. President, exists with respect to Dr. Foster's position on the issue of parental consent in the area of abortion.

During the hearings, Senator MIKULSKI and I each queried Dr. Foster about whether he supported requiring parental consent in cases where minors seek abortions. In the end, Dr. Foster maintained that he supported parental consent laws as long as a judicial bypass provision was included. However, in a speech before a 1984 Planned Parenthood conference, Dr. Foster expressed strong opposition to consent statutes, including a Tennessee statute which included judicial bypass language. In that speech, Dr. Foster stated, ''However, the [Supreme] Court upheld consent laws for minors; hence our opponents can still create abortion deterrents by seeking legislation which will necessitate such an approval.'' And, moments later, Dr. Foster repeated this sentiment. ''The Supreme Court * * * upheld by a single vote margin the constitutionality of minority consent requirements, but in doing so, it did not examine how such laws work in actual practice. Hence, an opening has been left for those who would like to see such laws invalidated.''

Those are pretty definitive statements. And they are in direct conflict with the support Dr. Foster professed for consent legislation at the hearing in response to my questions. This lack of consistency was troubling, Mr. President, and further buttressed my concerns about Dr. Foster's credibility. Furthermore, this nomination has from the very beginning been dogged by another credibility issue: the question of how many abortions Dr. Foster actually performed over the years. The White House originally told the chairman of the Labor Committee that Dr. Foster had only performed one abortion. Then Dr. Foster issued a written statement claiming he had performed less than a dozen abortions. Days later, on ''Nightline,'' Dr. Foster changed his position and stated that he had performed 39 abortions since 1973. During the Labor Committee hearings he admitted that he had performed a 40th—albeit a ''pregnancy termination''—performed before 1973. During the same ''Nightline'' broadcast, Dr. Foster also was asked whether he was including in this count the 59 abortions obtained by women participating in a clinical trial he supervised for the drug prostaglandin.

Dr. Foster said that he did not include those abortions because they were part of a research study performed by a university trying to maintain accredition. Thus, Dr. Foster, at various times throughout this process, has said that he performed 1 abortion, then 12, then 39, then 40, then another 49. In short, the number has changed with too much frequency and is still somewhat dependent on semantics.

The issue here is no longer the actual number, but, again, one of credibility. Knowing that the issue of abortion was going to be of great concern, I believe it was Dr. Foster's responsibility from the start to provide a complete and accurate accounting so that the Labor Committee and the American people would have reliable information with which to judge his qualifications.

Finally, Mr. President, Dr. Foster's credibility has been undermined by his characterization of the transcript from the 1978 HEW Ethics Board meeting, a meeting at which he was an active participant, and at which he is specifically reported to have said that he performed ''perhaps'' 700 abortions. The White House's initial response to news of the transcript's existence was to suggest that Dr. Foster had not even been at the meeting. The White House then shifted its approach and began issuing statements calling the transcript a fraud. That charge later proved to be false as well.

Now, even if the White House issued these false statements without Dr. Foster's knowledge, I believe he had a responsibility—to the White House, to Congress and to the American people—to correct the errors once they appeared. To my knowledge, no such attempt was made.

Only after others verified that Dr. Foster was at this meeting and that the transcript was, in fact, genuine did the White House and Dr. Foster adopt their current position: They now contend that the remark attributed to Dr. Foster about performing 700 amniocentesis and therapeutic abortions was an error in the transcription.

However, after reviewing the transcript, it was clear to me that there was no transcription error. The only transcription problems occurred during different portions of the meeting and were corrected on the spot. Additionally, in response to my written questions, Dr. Foster did not deny other remarks about amniocentesis and therapeutic abortions attributed to him in the transcript. In fact, he admitted to having performed ''therapeutic abortions'' after diagnosing genetic disorders in unborn babies. This revelation conflicted with Dr. Foster's previous assertions about what was said at the meeting and raised even further questions in my mind about Dr. Foster's credibility.

Mr. President, on the matters I have just outlined, I believe Dr. Foster's credibility has been seriously damaged. Because I believe credibility is such an essential quality for any effective Surgeon General, I do not see how, given this liability, I could in good conscience support Dr. Foster's nomination.

Now, Mr. President, let me offer my reasons for voting against cloture in this instance. Generally speaking, it is my intention to vote to confirm qualified individuals that the President nominates. But in those circumstances where the integrity and credibility of a nominee—or the actions of an administration in presenting a nominee—are clearly or seriously in question, I will reserve my right to vote against the President's choice, or against efforts to close off debate on the Senate floor.

In my judgment, this nomination does present clear and serious questions about the nominee's credibility. For that reason, Mr. President, I felt a sincere obligation to vote against invoking cloture on the nomination of Dr. Henry Foster to be Surgeon General.●

THE INTRODUCTION OF THE HISTORIC HOMEOWNERSHIP ASSISTANCE ACT

● Mr. GRAHAM. Mr. President, today I join my colleague Senator CHAFEE in support of the Historic Homeownership Assistance Act, which he introduced yesterday. This will would spur growth and preservation of historic neighborhoods across the country by providing a limited tax credit for qualified rehabilitation expenditures to historic homes.

An understanding of the history of the United States serves as one of the cornerstones supporting this great Nation. We find American history reflected not only in books, films, and stories, but also in physical structures, including schools, churches, county courthouses, mills, factories, and personal residences.

The bill that Senators CHAFEE, SIMON, PRYOR, JOHNSTON, and I are cosponsoring focuses on the preservation of historic residences. The bill will assist Americans who want to safeguard, maintain, and reside in these living museums.

The Historic Homeownership Assistance Act will stimulate rehabilitation

of historic homes. The Federal tax credit provided in the legislation is modelled after the existing Federal commercial historic rehabilitation tax credit. Since 1981, this commercial tax credit has facilitated the preservation of many historic structures across this great land. For example in the last two decades, in my home State of Florida, $238 million in private capital was invested in over 325 historic rehabilitation projects. These investments helped preserve Ybor City in Tampa and the Springfield historic district in Jacksonville.

The tax credit, however, has never applied to personal residences. It is time to provide an incentive to individuals to restore and preserve homes in America's historic communities.

The Historic Homeownership Assistance Act targets Americans of all economic incomes. The bill provides lower income Americans with the option to elect a Mortgage Credit Certificate in lieu of the tax credit. This certificate allows Americans who cannot take advantage of the tax credit to reduce the interest rate on their mortgage that secures the purchase and rehabilitation of a historic home.

For example, if a lower-income family were to purchase a $35,000 home which included $25,000 worth of qualified rehabilitation expenditures, it would be entitled to a $5,000 Historic Rehabilitation Mortgage Credit Certificate which could be used to reduce interest payments on the mortgage. This provision would enable families to obtain a home and preserve historic neighborhoods when they would be unable to do so otherwise.

This bill will vest power to those best suited to preserve historic housing: the states. Realizing that the States can best administer laws affecting unique communities, the Act gives power to the Secretary of the Interior to enter into agreements with states to implement a number of the provisions.

The Historic Homeownership Assistance Act does not, however, reflect an untried proposal. In addition to the existing commercial historic rehabilitation credit, the proposed bill incorporates features from several State tax incentives for the preservation of historic homes. Colorado, Maryland, New Mexico, Rhode Island, Wisconsin, and Utah have pioneered their own successful versions of a historic preservation tax incentive for homeownership.

At the Federal level, this legislation would promote historic home preservation nationwide, allowing future generations of Americans to visit and reside in homes that tell the unique history of our communities. The Historic Homeownership Assistance Act will offer enormous potential for saving historic homes and bringing entire neighborhoods back to life.

I urge my colleagues to support this bill for the preservation of history.●

PAKISTAN: AMERICA'S LONG-TIME ALLY

● Mr. BROWN. Mr. President, the United States and Pakistan have a long-standing friendship. When South Asia gained its independence from Britain in 1947, the countries of the region faced an important choice—alignment with the United States or nonalignment and cooperation with the Soviet Union. Pakistan unabashedly chose the United States. In 1950, Pakistan's first Prime Minister visited the United States, laying the seeds for more than 40 years of close cooperation between our two countries.

In 1950, Pakistan extended unqualified support to the United States-led United Nations effort on the Korean peninsula. Pakistan joined in the fight against communism by joining the Central Treaty Organization [CENTO] in 1954 and the Southeast Asia Treaty Organization [SEATO] in 1955. In 1959, Pakistan and the United States signed a mutual defense treaty, under which the United States setup a military airbase near Peshawar from which reconnaissance flights over the Soviet Union were conducted. This concession came at great risk to Pakistan. After the 1960 shoot-down of Gary Powers over the Soviet Union, the Soviets issued threatening statements directed at Pakistan for its support of the United States.

Ten years later, Pakistan worked with the United States to arrange the first United States opening to China when then-Secretary of State Henry Kissinger secretly visited China from Pakistan in 1970. Partly as a result of Soviet pique over Pakistan's assistance to the United States, the Soviets entered into a treaty of friendship with India, which was shortly followed by India's invasion of East Pakistan in 1971.

From 1979 to 1989, Pakistan opened its borders and joined to United States forces assisting the Afghan rebels fighting against the Soviet occupation of Afghanistan. The reliable assistance of our friends in Pakistan played a significant role in the Soviet defeat in Afghanistan, thereby hastening the collapse of the Soviet empire and monolithic world communism.

Pakistan joined the United States during the Gulf war against Iraq, contributing significantly to the international forces arrayed against Saddam Hussein. Since 1992, Pakistan has been in the forefront of U.N. peacekeeping operations. In addition, Pakistan has cooperated extensively with the United States in our efforts to combat international terrorism, providing critical assistance in the apprehension and swift extradition of Ramzi Ahmed Yousef, the alleged mastermind of the terrorist attack on the World Trade Center in New York City. Pakistan has truly been a good friend of the United States.

Pakistan currently faces a nuclear threat from India who faces a nuclear threat from China. This circular threat coupled with conflict after conflict in the region has created a spiraling arms race in South Asia. In 1985 the Congress adopted an amendment to the Foreign Assistance Act of 1961 cutting off all assistance to Pakistan if the President could not certify that Pakistan did not possess a nuclear explosive device. In 1990, the President was unable to issue such a certification.

After 5 years, it is clear that the nonproliferation approach outlined in this amendment—known as the Pressler amendment—has not worked. The approach taken by the amendment attempts to penalize only one party to this regional nuclear arms race, while leaving the other parties free to produce nuclear weaponry and nuclear capable delivery systems

China has undertaken the single largest military build-up in the world. India's weapons program has continued unabated since 1974 and is now developing nuclear capable missile delivery technology that is perceived as a direct threat to Pakistan. Faced with these threats to its national security, the restrictions on United States assistance have not deterred Pakistan from developing a nuclear weapons capability. It is clear that no progress in non-proliferation has been made in South Asia since these restrictions took effect.

The President recognized this fact during the April 11, 1995, meeting with Prime Minister Bhutto of Pakistan after which he stated that ''in the end we're going to have to work for a nuclear-free subcontinent, a nuclear-free region, region free of all proliferation of weapons of mass destruction.'' Mr. President, I ask that the full text of the President's press conference with Mrs. Bhutto be printed in the RECORD.

The text is as follows:

PRESS CONFERENCE BY THE PRESIDENT AND PRIME MINISTER BENAZIR BHUTTO OF PAKISTAN, APRIL 11, 1995

THE PRESIDENT. Please be seated. Good afternoon. It's a great pleasure for me to welcome Prime Minister Bhutto to the White House. I'm especially pleased to host her today because of the tremendous hospitality that the Prime Minister and the Pakistani people showed to the First Lady and to Chelsea on their recent trip.

I've heard a great deal about the visit, about the people they met, their warm welcome at the Prime Minister's home, about the dinner the Prime Minister gave in their honor. The food was marvelous, they said, but it was the thousands of tiny oil lamps that lit the paths outside the Red Fort in Lahore that really gave the evening its magical air. I regret that here at the White House I can only match that with the magic of the bright television lights. (*Laughter*)

Today's meeting reaffirms the longstanding friendship between Pakistan and the United States. It goes back to Pakistan's independence. At the time, Pakistan was an experiment in blending the ideals of a young democracy with the traditions of Islam. In the words of Pakistan's first President, Mohammed Ali Jinnah, Islam and its idealism have taught us democracy. It has taught us the equality of man, justice, and fair play to everybody. We are the inheritors of the glorious traditions and are fully alive to our responsibilities and obligations. Today Pakistan is pursuing these goals of combining the

practice of Islam with the realities of democratic ideals, moderation, and tolerance.

At our meetings today, the Prime Minister and I focused on security issues that affect Pakistan, its neighbor, India, and the entire South Asian region. The United States recognizes and respects Pakistan's security concerns. Our close relationships with Pakistan are matched with growing ties with India. Both countries are friends of the United States, and contrary to some views, I believe it is possible for the United States to maintain close relations with both countries.

I told the Prime Minister that if asked, we will do what we can to help these two important nations work together to resolve the dispute in Kashmir and other issues that separate them. We will also continue to urge both Pakistan and India to cap and reduce and finally eliminate their nuclear and missile capabilities. As Secretary Perry stressed during his visit to Pakistan earlier this year, we believe that such weapons are a source of instability rather than a means to greater security. I plan to work with Congress to find ways to prevent the spread of nuclear weapons and to preserve the aims of the Pressler Amendment, while building a stronger relationship with a secure, more prosperous Pakistan. Our two nations' defense consultative group will meet later this spring.

In our talks the Prime Minister and I also discussed issues of global concern, including peacekeeping and the fight against terrorism and narcotics trafficking. I want to thank Prime Minister Bhutto and the Pakistani officers and soldiers who have worked so closely with us in many peacekeeping operations around the globe, most recently in Haiti, where more than 800 Pakistanis are taking part in the United Nations operation.

On the issue of terrorism, I thank the Prime Minister for working with us to capture Ramszi Yousef, one of the key suspects in the bombing in the World Trade Center. We also reviewed our joint efforts to bring to justice the cowardly terrorist who murdered two fine Americans in Karachi last month. I thanked the Prime Minister for Pakistan's effort in recent months to eradicate opium poppy cultivation, to destroy heroin laboratories, and just last week, to extradite two major traffickers to the United States. We would like this trend to continue.

Finally, the Prime Minister and I discussed the ambitious economic reform and privatization programs she has said will determine the well-being of the citizens of Pakistan and other Moslem nations. Last year, at my request, our Energy Secretary, Hazel O'Leary, led a mission to Pakistan which opened doors for many U.S. firms who want to do business there. Encouraged by economic growth that is generating real dividends for the Pakistani people. The United States and other foreign firms are beginning to commit significant investments, especially in the energy sector. I'm convinced that in the coming years, the economic ties between our peoples will grow closer, creating opportunities, jobs and profits for Pakistanis and Americans alike.

Before our meetings today, I was reminded that the Prime Minister first visited the White House in 1989 during her first term. She left office in 1990, but then was returned as Prime Minister in free and fair elections in 1993. Her presence here today testifies to her strong abilities and to Pakistan's resilient democracy. It's no wonder she was elected to lead a nation that aims to combine the best of the traditions of Islam with modern democratic ideals. America is proud to claim Pakistan among her closest friends. (*Applause*)

PRIME MINISTER BHUTTO: Mr. President, ladies and gentlemen: I'd like to begin by thanking the President for his kind words of support and encouragement.

Since 1989, my last visit to Washington, both the world and Pak-U.S. relations have undergone far-reaching changes. The post-Cold War era has brought into sharp focus the positive role that Pakistan, as a moderate, democratic, Islamic country of 130 million people, can play, and the fact that it is strategically located at the tri-junction of South Asia, Central Asia and the Gulf—a region of both political volatility and economic opportunity.

Globally, Pakistan is active in U.N. peacekeeping operations. We are on the forefront of the fight against international terrorism, narcotics, illegal immigration and counterfeit currency. We remain committed to the control and elimination of weapons of mass destruction, as well as the delivery systems on a regional, equitable and non-discriminatory basis.

Since 1993, concerted efforts by Pakistan and the United States to broaden the base of bilateral relations have resulted in steady progress. In September 1994, in a symbolic gesture, the United States granted Pakistan about $10 million in support for population planning. This was announced by the Vice President at the Cairo Summit on population planning. This was followed by the presidential mission, led by Energy Secretary Hazel O'Leary, which resulted in agreement, worth $4.6 billion being signed. And, now, during my visit here, we are grateful to the administration and the Cabinet secretaries for having helped us sign $6 billion more of agreements between Pakistan and the United States.

During the Defense Secretary's visit to Pakistan in January 1995, our countries decided to revive the Pakistan-United States Defense Consultative Group. And more recently, we had the First Lady and the First Daughter visit Pakistan, and we had an opportunity to discuss women's issues and children's issues with the First Lady. And we found the First Daughter very knowledgeable. We found Chelsea very knowledgeable on Islamic issues. I'm delighted to learn from the President that Chelsea is studying Islamic history and has also actually read our Holy Book, the Koran Shariah.

I'm delighted to have accepted President Clinton's invitation to Washington. This is the first visit by a Pakistani's Chief Executive in six years. President Clinton and I covered a wide range of subjects, including Kashmir, Afghanistan, Central Asia, Gulf, Pakistan-India relations, nuclear proliferation, U.N. peacekeeping, terrorism and narcotics.

I briefed him about corporate America's interest in Pakistan, which has resulted in the signing of $12 billion worth of MOUs in the last 17 months since our government took office. I urged an early resolution of the core issue of Kashmir, which poses a great threat to peace and security in our region. It has retarded progress on all issues, including nuclear and missile proliferation. A just and durable solution is the need of the hour, based on the wishes of the Kashmiri people, as envisaged in the Security Council resolutions. Pakistan remains committed to engage in a substantive dialogue with India to resolve this dispute, but not in a charade that can be used by our neighbor to mislead the international community. I am happy to note that the United States recognizes Kashmir as disputed territory and maintains that a durable solution can only be based on the will of the Kashmiri people.

Pakistan asked for a reassessment of the Pressler Amendment, which places discriminatory sanctions on Pakistan. In our view, this amendment has been a disincentive for a regional solution to the proliferation issue. Pakistan has requested the President and the administration to resolve the problem of our equipment worth $1.4 billion, which is held up. I am encouraged by my discussions with the President this morning and the understanding that he has shown for Pakistan's position. I welcome the Clinton administration's decision to work with Congress to revise the Pressler Amendment.

Thank you, Mr. President.

THE PRESIDENT. Thank you.

Terry.

QUESTION. Mr. President, you both mentioned the Pressler Amendment, but I'm not sure what you intend to do. Will you press Congress to allow Pakistan to receive the planes that it paid for or to get its money back?

THE PRESIDENT. Let me tell you what I intend to do. First of all, I intend to ask Congress to show some flexibility in the Pressler Amendment so that we can have some economic and military cooperation. Secondly, I intend to consult with them about what we ought to do about the airplane sale.

As you know, under the law as it now exists, we cannot release the equipment. It wasn't just airplanes, it was more than that. We cannot release the equipment. However, Pakistan made payment. The sellers of the equipment gave up title and received the money, and now it's in storage. I don't think what happened was fair to Pakistan in terms of the money. Now, under the law, we can't give up the equipment. The law is clear. So I intend to consult with the Congress on that and see what we can do.

I think you know that our administration cares very deeply about nonproliferation. We have worked very hard on it. We have lobbied the entire world community for an indefinite extension of the NPT. We have worked very hard to reduce the nuclear arsenals of ourselves and Russia and the other countries of the former Soviet Union. We are working for a comprehensive test ban treaty. We are working to limit fissile material production. We are working across the whole range of issues on nonproliferation. But I believe that the way this thing was left in 1990 and the way I found it when I took office requires some modification, and I'm going to work with the Congress to see what progress we can make.

QUESTION. Mr. President, what was your response to Pakistan's suggestion that the United States would play an active role in the solution of the Kashmir issue?

PRESIDENT CLINTON: The United States is willing to do that, but can, as a practical matter, only do that if both sides are willing to have us play a leading role. A mediator can only mediate if those who are being mediated want it. We are more than willing to do what we can to try to be helpful here.

And, of course, the Indians now are talking about elections. It will be interesting to see who is eligible to vote, what the conditions of the elections are, whether it really is a free referendum of the people's will there. And we have encouraged a resolution of this. When Prime Minister Rao was here, I talked about this extensively with him. We are willing to do our part, but we can only do that if both sides are willing to have us play a part.

QUESTION. Madam Prime Minister, why do you need nuclear weapons? And, Mr. President, don't you weaken your case to denuclearize the world when you keep making exceptions?

PRIME MINISTER BHUTTO: We don't have nuclear weapons; I'd like to clarify that—that we have no nuclear weapons. And this is our decision to demonstrate our commitment to——

QUESTION. But you are developing them?

PRIME MINISTER BHUTTO: No. We have enough knowledge and capability to make

and assemble a nuclear weapon, but we have voluntarily chosen not to either assemble a nuclear weapon, to detonate a nuclear weapon or to export technology. When a country doesn't have the knowledge and says it believes in nonproliferation, I take that with a pinch of salt. But when a country has that knowledge—and the United States and other countries of the world agree that Pakistan has that knowledge—and that country does not use that knowledge to actually put together or assemble a device, I think that that country should be recognized as a responsible international player which has demonstrated restraint and not taken any action to accelerate our common goals of nonproliferation.

THE PRESIDENT: On your question about making an exception, I don't favor making an exception in our policy for anyone. But I think it's important to point out that the impact of the Pressler Amendment is directed only against Pakistan. And instead, we believe that in the end we're going to have to work for a nuclear-free subcontinent, a nuclear-free region, a region free of all proliferation of weapons of mass destruction. And the import of the amendment basically was rooted in the fact that Pakistan would have to bring into its country, would have to import the means to engage in an arms race, whereas India could develop such matters within this own borders.

The real question is, what is the best way to pursue nonproliferation? This administration has an aggressive, consistent, unbroken record of leading the world in the area of nonproliferation. We will not shirk from that. But we ought to do it in a way that is most likely to achieve the desired results. And at any rate, that is somewhat different from the question of the Catch-22 that Pakistan has found itself in now for five years, where it paid for certain military equipment; we could not, under the law, give it after the previous administration made a determination that the Pressler Amendment covered the transaction, but the money was received, given to the sellers, and has long since been spent.

QUESTION. But will you get a commitment from them to sign the Non-Proliferation Treaty?

THE PRESIDENT: I will say again, I am convinced we're going to have to have a regional solution there, and we are working for that. But we are not making exceptions.

Let me also make another point or two. We are not dealing with a country that has manifested aggression toward the United States or—in this area. We're dealing with a country that just extradited a terrorist or a suspected terrorist in the World Trade Center bombing; a country that has taken dramatic moves in improving its efforts against terrorism, against narcotics; that has just deported two traffickers—or extradited two traffickers to the United States; a country that has cooperated with us in peacekeeping in Somalia, in Haiti, and other places.

We are trying to find ways to fulfill our obligations, our legal obligations under the Pressler Amendment, and our obligation to ourselves and to the world to promote nonproliferation and improve our relationships across the whole broad range of areas where I think it is appropriate.

PRIME MINISTER BHUTTO: May I just add that as far as we in Pakistan are concerned, we have welcomed all proposals made by the United States in connection with the regional solution to nonproliferation, and we have given our own proposals for a South Asia free of nuclear weapons and for a zero missile regime. So we have been willing to play ball on a regional level. Unfortunately, it's India that has not played ball. And what we are asking for is a leveling of the playing field so that we can attain our common goals of nonproliferation of weapons of mass destruction.

QUESTION. Mr. President, why has the United States toned down its criticism of India's human rights violations in Kashmir—why has the United States toned down its criticism of India's human rights violations in Kashmir?

PRESIDENT CLINTON: I'm sorry, sir. I'm hard of hearing. Could you——

QUESTION. Why has the United States toned down criticism of India's human rights violations in Kashmir?

PRESIDENT CLINTON: There's been no change in our policy there. We are still trying to play a constructive role to resolve this whole matter. That is what we want. We stand for human rights. We'd like to see this matter resolved. We are willing to play a mediating role. We can only do it if both parties will agree. And we would like very much to see this resolved.

Obviously, if the issue of Kashmir were resolved, a lot of these other issues we've been discussing here today would resolve themselves. At least, I believe that to be the case. And so, we want to do whatever the United States can do to help resolve these matters because so much else depends on it, as we have already seen.

QUESTION. Mr. President, a domestic question on the bill you signed today for health insurance for the self-employed. Other provisions in that bill send a so-called wrong message on issues like affirmative action, a wrong message on wealthy taxpayers. Why then did you sign it as opposed to sending it back? Were you given any kind of a signal that this was the best you'd get out of conference?

PRESIDENT CLINTON. Well, no. I signed the bill because—first of all, I do not agree with the exception that was made in the bill. I accept the fact that the funding mechanism that's in there is the one that's in there and I think it's an acceptable funding mechanism. I don't agree with the exception that was made in the bill. And it's a good argument for line-item veto that applies to special tax preferences as well as to special spending bills. If we had the line-item veto, it would have been a different story.

But I wanted this provision passed last year, and the Congress didn't do it. I think it's a down payment on how we ought to treat the self-employed in our country. Why should corporations get a 100-percent deductibility and self-employed people get nothing or even 35 percent or 30 percent? I did it because tax day is April 17th, and these people are getting their records ready, and there are millions of them, and they are entitled to this deduction. It was wrong for it ever to expire in the first place.

Now, I also think it was a terrible mistake for Congress to take the provision out of the bill which allows—which would have required billionaires to pay taxes on income earned as American citizens and not to give up their citizenship just to avoid our income tax. But that can be put on any bill in the future. It's hardly a justification to veto a bill that something unrelated to the main subject was not in the bill. It is paid for.

This definitely ought to be done. It was a bad mistake by Congress. But that is not a justification to deprive over three million American business people and farmers and all of their families the benefit of this more affordable health care through this tax break.

QUESTION. Mr. President, don't you think that the United States is giving wrong signals to its allies by dumping Pakistan who has been an ally for half a century in the cold after the Iran war?

PRESIDENT CLINTON. First of all, sir, I have no intention of dumping Pakistan. Since I've been President, we have done everything we could to broaden our ties with Pakistan, to deepen our commercial relationships, our political relationships and our cooperation. The present problem we have with the fact that the Pressler amendment was invoked for the first—passed in 1985, invoked for the first time in 1990, and put Pakistan in a no-man's land where you didn't have the equipment and you'd given up the money. That is what I found when I became President. And I would very much like to find a resolution of it.

Under the amendment, I cannot—I will say again—under the law, I cannot simply release the equipment. I cannot do that lawfully. Therefore, we are exploring what else we can do to try to resolve this in a way that is fair to Pakistan. I have already made it clear to you—and I don't think any American President has ever said this before—I don't think it's right for us to keep the money and the equipment. That is not right. And I am going to try to find a resolution to it. I don't like this.

Your country has been a good partner, and more importantly, has stood for democracy and opportunity and moderation. And the future of the entire part of the world where Pakistan is depends in some large measure on Pakistan's success. So we want to make progress on this. But the United States, a, has a law, and b, has large international responsibilities in the area of nonproliferation which we must fulfill.

So I'm going to do the very best I can to work this out, but I will not abandon Pakistan. I'm trying to bring the United States closer to Pakistan, and that's why I am elated that the Prime Minister is here today.

PRIME MINISTER BHUTTO. And I'd like to say that we are deeply encouraged by the understanding that President Clinton has shown of the Pakistan situation, vis-a-vis the equipment and vis-a-vis the security needs arising out of the Kashmir dispute. And also, that Pakistan is willing to play ball in terms of any regional situation.

We welcome American mediation to help resolve the Kashmir dispute. We are very pleased to note that the United States is willing to do so, if India responds positively. And when my President goes to New Delhi next month, this is an issue which he can take up with the Prime Minister of India. But let's get down to the business of settling the core dispute of Kashmir so that our two countries can work together with the rest of the world for the common purpose of peace and stability.

THE PRESIDENT. Thank you.

THE PRESS. Thank you.

Mr BROWN. Mr. President, the Senate Foreign Relations Committee was catalysed by the Prime Minister's recent visit, and agreed during our recent markup that a new approach is needed. We passed, by a vote of 16 to 2, an amendment to modify these existing restrictions. I ask that a copy of the amendment and the report language also be printed in the RECORD.

The amendment and report language are as follows:

AMENDMENT NO.—

At the appropriate place in the bill, add the following new section:

"SEC. 510. CLARIFICATION OF RESTRICTIONS UNDER SECTION 620E OF THE FOREIGN ASSISTANCE ACT OF 1961.

Subsection (e) of section 620E of the Foreign Assistance Act of 1961 (P.L. 87–195) is amended—

(1) by striking the words ''No assistance'' and inserting the words ''No military assistance'';

(2) by striking the words ''in which assistance is to be furnished or military equipment or technology'' and inserting the words ''in which military assistance is to be furnished or military equipment or technology''; and

(3) by striking the words ''the proposed United States assistance'' and inserting the words ''the proposed United States military assistance'';

(4) by adding the following new paragraph:

''(2) The prohibitions in this section do not apply to any assistance or transfer provided for the purposes of:

''(A) International narcotics control (including Chapter 8 of Part I of this Act) or any provision of law available for providing assistance for counternarcotics purposes;

''(B) Facilitating military-to-military contact, training (including Chapter 5 of Part II of this Act) and humanitarian and civic assistance projects;

''(C) Peacekeeping and other multilateral operations (including Chapter 6 of Part II of this Act relating to peacekeeping) or any provision of law available for providing assistance for peacekeeping purposes, except that lethal military equipment shall be provided on a lease or loan basis only and shall be returned upon completion of the operation for which it was provided;

''(D) Antiterrorism assistance (including Chapter 8 of Part II of this Act relating to antiterrorism assistance) or any provision of law available for antiterrorism assistance purposes'';

(5) by adding the following new subsections at the end—

''(f) STORAGE COSTS.—The President may release the Government of Pakistan of its contractual obligation to pay the United States Government for the storage costs of items purchased prior to October 1, 1990, but not delivered by the United States Government pursuant to subsection (e) and may reimburse the Government of Pakistan for any such amounts paid, on such terms and conditions as the President may prescribe, provided that such payments have no budgetary impact.

''(g) RETURN OF MILITARY EQUIPMENT.—The President may return to the Government of Pakistan military equipment paid for and delivered to Pakistan and subsequently transferred for repair or upgrade to the United States but not returned to Pakistan pursuant to subsection (e). Such equipment or its equivalent may be returned to the Government of Pakistan provided that the President determines and so certifies to the appropriate congressional committees that such equipment or equivalent neither constitutes nor has received any significant qualitative upgrade since being transferred to the United States.''

''(h) SENSE OF CONGRESS AND REPORT.—

''(1) It is the sense of the Congress that:

''(A) fundamental U.S. policy interests in South Asia include:

''(1) resolving underlying disputes that create the conditions for nuclear proliferation, missile proliferation and the threat of regional catastrophe created by weapons of mass destruction;

''(2) achieving cooperation with the United States on counterterrorism, counternarcotics, international peacekeeping and other U.S. international efforts;

''(3) achieving mutually verifiable caps on fissile material production, expansion and enhancement of the mutual ''no first strike pledge'' and a commitment to work with the United States to cap, roll-back and eliminate all nuclear weapons programs in South Asia;

''(B) to create the conditions for lasting peace in South Asia, U.S. policy toward the region must be balanced and should not reward any country for actions inimical to the United States interest;

''(C) the President should initiate a regional peace process in South Asia with both bilateral and multilateral tracks that includes both India and Pakistan;

''(D) the South Asian peace process should have on its agenda the resolution of the following—

''(1) South Asian nuclear proliferation, including mutually verifiable caps on fissile material production, expansion and enhancement of the mutual ''no first strike'' pledge and a commitment to work with the United States to cap, roll-back and eliminate all nuclear weapons programs in South Asia;

''(2) South Asian missile proliferation;

''(3) Indian and Pakistani cooperation with Iran;

''(4) The resolution of existing territorial disputes, including Kashmir;

''(5) Regional economic cooperation; and

''(6) Regional threats, including threats posed by Russia and China.

''(2) REPORT.—Consistent with the existing reporting requirements under subsection 620F(c) of the Foreign Assistance Act of 1961 as amended, the President shall submit a report to the appropriate congressional committees on the progress of these talks, on whether South Asian countries are working to further U.S. interests, and proposed U.S. actions to further the resolution of the conflict in South Asia as listed in (1) above and to further U.S. international interests, including—

''(A) The degree and extent of cooperation by South Asian countries with all U.S. international efforts, including voting support within the United Nations; and

''(B) Whether withholding of military assistance, dual-use technology, economic assistance and trade sanctions would further U.S. interests.''

EXCERPT FROM REPORT

Section 510.—Clarification of restrictions under section 620E of the Foreign Assistance Act of 1961

Section 510 amends section 620E(e) of the Foreign Assistance Act of 1961, as amended. Section 510(1) strikes the restrictions on all assistance to Pakistan and insert a restriction on military assistance in its stead. Section 510(e)(E) adds several sections to section 620E(e) of the Foreign Assistance Act, including: (1) a paragraph which specifies that prohibitions of military assistance to Pakistan do not apply to any assistance provided fro the purposes of international narcotics control, military to military contacts, training or humanitarian assistance, peacekeeping, multilateral operations or antiterrorism activities; (2) a waiver of storage costs for military equipment not delivered to Pakistan and authorized repayment of those costs; (3) authorization for the return of Pakistani owned, unrepaired military equipment sent to the United States; (4) a sense of Congress statement relating to United States policy toward South Asia; and (5) an enhanced reporting requirement under section 620F(c) of the Foreign Assistance Act of 1961.

The United States friendship with Pakistan dates from 1947, soon after Pakistani independence. Since then Pakistan's cooperation with the United States has been remarkable; Pakistan stood with the United States throughout the cold war against Soviet totalitarian expansionism; Pakistan has been in the forefront of U.S.-initiated United Nations peacekeeping operations; and Pakistan has cooperated extensively with the United States in counterterrorism, providing critical assistance in the apprehension and switch extradition of Ramzi Ahmed Yousef, the alleged mastermind of the terrorist attack on the World Trade Center in New York City.

For much of the last two decades, Pakistan has faced a nuclear threat from India. India's nuclear program, initiated in response to the threat perceived by China's development of a nuclear weapon, and three wars fought between the two countries, created the incentive for Pakistani pursuit of a nuclear program. The United States provided conventional military assistance to Pakistan, in part to discourage the development of a nuclear program. In October 1990, the President was unable to certify under section 620E(e) of the Foreign Assistance Act of 1961 as amended (known as the ''Pressler Amendment'') that Pakistan did not possess a nuclear explosive device, and United States assistance to Pakistan was ended.

The Pressler restrictions required a cut-off of all United States assistance to Pakistan, including assistance to United States companies doing business there. However, this legislation has not proven to be an effective tool of United States non-proliferation efforts in South Asia. In recognition of this, President Clinton called for a review of the Pressler amendment on April 11, 1995.

After careful and extensive consideration, the committee, on a vote of 16 to 2, agreed to modify the existing prohibitions on United States assistance to Pakistan under section 620E(e). The provision included by the committee specifically exempts from restrictions all assistance provided for bilateral international narcotics control activities, military-to-military contact, humanitarian assistance, peacekeeping and counterterrorism assistance.

The committee also clarified that the prohibition shall only apply to military assistance. Currently, the State Department has interpreted the Pressler amendment to include all United States assistance and sales. The committee is aware that certain aid, such as antiterrorism assistance, and certain sales of United States goods are warranted and should be encouraged. For example, equipment that assists in confidence building measures between Pakistan and India should not be prohibited. Such items would include border surveillance equipment, radar, radar warning receivers, etc. Items such as these not only promote border security and help prevent surprise attacks, but also prevent accidental incursions and incidents that could escalate into significant confrontations. As with sales of military and non-military items to India, sales of non-military equipment to Pakistan would be made on a case-by-case basis.

Notwithstanding President Clinton's commitment to resolve the outstanding issue of $1.4 billion worth of equipment that Pakistan bought, but that has not been delivered, the administration continues to investigate possible solutions and has yet to recommend a course of action. The committee generally agreed that some resolution 1 of this issue is important, but took no action pending an administration recommendation.

Section 511.—Statement of policy and requirement for report on oil pipeline through Azerbaijan, Armenia, Georgia, and Turkey

Section 511 states that it is the sense of the Senate to support construction of an oil pipeline through Azerbaijan, Armenia, Georgia, and turkey. The section also requires a report analyzing potential routes for construction of the pipeline. The report shall include a discussion of the advantages and disadvantages for different routes, including: (1) the amount of oil to be transported along each route of the pipeline; (2) the cost of constructing the pipeline; (3) options for commercial and public financing of construction

of each route of the pipeline; and (4) the impact on regional stability of the pipeline along each route.

The oil-rich Transcaucasus region that stretches between the Southern border of the Russian Federation and Iran is of great geostrategic interest to the United States. Development of an oil pipeline through Azerbaijan, Armenia and Turkey or Georgia would provide the countries in the Transcaucasus with economic access outside Russian or Iranian control. The committee believes that such a pipeline would help ensure that Armenia, Azerbaijan and Georgia remain strong and independent nations while simultaneously providing the United States with a major source of petroleum outside of the Persian Gulf.

Section 512.—Reports on eradication of production and trafficking in narcotic drugs and marijuana

Section 512 requires the President to submit a semiannual report to Congress on the progress made by the United States in eradicating production of and trafficking in illicit drugs. The report shall be submitted in unclassified form with a classified annex, if required.

Section 513.—Reports on commercial disputes with Pakistan

Section 513 requires the Secretary of State, in consultation with the Secretary of Commerce, to report 30 days after the bill's enactment, and every 90 days thereafter, on the status of disputes between the Government of Pakistan and United States persons with respect to cellular telecommunications and on the progress of efforts to resolve such disputes. The requirement to submit the report shall terminate upon certification by the Secretary of State to Congress that all significant disputes between the Government of Pakistan and United States persons with respect to cellular communications have been satisfactorily resolved.

In other sections of this bill, the committee broadened the Pressler amendment to allow, among other things, for United States trade and investment programs in Pakistan. However, the committee believes that United States companies should enjoy a friendly business atmosphere in Pakistan, without which further development of economic relations will be difficult.

Section 514.—Nonproliferation and disarmament fund

Section 514 authorizes $25 million for each of the fiscal years 1996 and 1997 for the Nonproliferation and Disarmament Fund [NDF]. The NDF supplements United States diplomatic efforts to halt the spread of both weapons of mass destruction and advanced conventional weapons, their delivery systems, and related weapons and their means of delivery.

Under authority provided in section 504 of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (Freedom Support Act), significant accomplishments in furthering these nonproliferation and disarmament goals have been made. The NDF has, for example, assisted in the purchase of unsafeguarded highly enriched uranium from Kazakhstan, the destruction of Hungarian SCUD missiles, and work on deploying seismic arrays in Egypt and Pakistan necessary to test a global network to verify a Comprehensive Test Ban Treaty.

The NDF seeks bilateral and multilateral project proposals that dismantle and destroy existing weapons of mass destruction, their components and delivery systems, that strengthen international safeguards and delivery systems, that strengthen international safeguards, and that improve export controls and nuclear smuggling efforts.

Beginning in fiscal year 1996, the NDF will assume responsibility for export control assistance to the Newly Independent States [NIS]. This assistance has been provided by the Department of Defense in earlier legislation authorized under the Nunn-Lugar Comprehensive Threat Reduction Program.

The committee believes the NDF is an important element in achieving the high priority national security and foreign policy goal of slowing and reversing the proliferation of weapons of mass destruction and advanced conventional weapons.

Section 515.—Russian nuclear technology agreement with Iran

Section 515 expresses the sense of Congress regarding Russia's nuclear agreement with Iran. The Committee is profoundly concerned about an agreement between Russia and Iran to sell nuclear power reactors to Iran. It is the sense of this Committee that the Russian Federation should be strongly condemned if it continues a commercial agreement to provide Iran with nuclear technology which would assist that country in its development of nuclear weapons. Moreover, if such a transfer occurs, Russia would be ineligible for assistance under the terms of the Freedom Support Act.

During the May 1995 summit in Moscow, Russian President Yeltsin was asked by President Clinton to cancel the reactor sale to Iran. President Yeltsin did not halt the sale, but instead cancelled the Russian sale of a gas centrifuge to Iran and halted the training of 10 to 20 Iranian scientists a year in Moscow.

Iran is aggressively pursuing a nuclear-weapons acquisition program. The Central Intelligence Agency stated in September 1994 that Iran probably could, with some foreign help, acquire a nuclear weapons capability within 8 to 10 years. Iran is receiving that foreign help from Russia and China. Specifically, China is helping Iran build a nuclear research reactor, and in April it concluded a deal to sell Iran two light-water reactors. Pakistan, a country with . . .

Mr. BROWN. Mr. President, the nearly unanimous action by the Foreign Relations Committee is only a first step. Most importantly, there remains $1.4 billion worth of military equipment which Pakistan bought and paid for but which has never been delivered because of existing restrictions. President Clinton himself has said this situation is ''not fair to Pakistan.'' On behalf of a country that has been one of our closest allies throughout the cold war, the United States must rectify this circumstance.

I am certain the administration is developing alternatives, and I stand ready to work with them to ensure that our relationship with our close ally is able to move forward. Pakistan deserves fair treatment.●

PAUL BRUHN—1995 HARRIS AWARD WINNER

● Mr. LEAHY. Mr. President, early last month, Paul Bruhn of South Burlington, Vermont, received the 1995 Harris Award. Paul is the Executive Director of the Preservation Trust of Vermont, and I know that he was given the Award because of his life-long devotion to improving the Burlington area and helping Vermont in all things. He was recognized as the Downtown Business Person of the Year, and the honor is justly deserved.

During the past 20 years, I cannot remember a thing done to help Burlington that did not involve Paul Bruhn. Those of us who think of Burlington as home know how much we owe to Paul. I ask that two articles from the Burlington Free Press regarding Paul, be printed in the RECORD.

The articles follow:

[From the Burlington Free Press, May 5, 1995]

ARCHITECT, CONSULTANT HONORED

(By Stacey Chase)

Breaking with tradition, the Downtown Burlington Development Association has announced the winners of the Nathan Harris and Hertzel Pasackow awards that will be presented at the association's annual dinner May 11.

The 1995 Harris Award will be given to Paul Bruhn, executive director of the Non-profit Preservation Trust of Vermont and a private public affairs consultant. This year's Pasackow Award goes to Bob Miller for the development of his namesake building, Miller's Landmark, on the Church Street Marketplace.

''I was surprised, flattered, a little embarrassed but very appreciative,'' said Bruhn, 48, of South Burlington.

The Harris Award has been given since 1978 to the person ''who best emulates the enthusiasm, dedication and foresight of Nate Harris in maintaining and improving the economic vitality of the Burlington central business district.''

''Paul Bruhn has been involved and concerned with the vitality of downtown Burlington all of his life,'' said Ed Moore, executive director of the development association. ''And the interesting part of Paul's accomplishment and contribution is that he's never in the limelight; he's always been behind the scenes working very, very hard.''

The Pasackow Award has been given since 1984 for significant contribution to the physical or architectural quality of downtown Burlington. Miller's Landmark contains 15 stores and office space.

''When J.C. Penny chose to leave the city, the thought of a vacant shell of a building caused concern for many in downtown,'' Moore said. ''Then Bobby Miller purchased the building, created a vision and began implementation of a plan that is represented by that building as we know it today.''

Miller, 59, of Shelburne is president of REM Development Co. The Williston company is a commercial and industrial development firm.

''I think the building certainly has increased the identity of that upper block,'' Miller said. ''And it's been kind of a fun project.''

Both Harris and Pasackow were founding members of the development association. The late Nathan Harris started Nate's men's clothing store; the late Hertzel Pasackow started Mayfair women's clothing store.

Moore said the decision to announce the winner before the annual dinner was made this year to give the recipients greater recognition for their work.

''We thought we could get a better turnout if people knew,'' Moore said.

[From the Burlington Free Press, May 12, 1995]

PASACKOW, HARRIS AWARDS GIVEN

(By Candy Page)

In a bittersweet moment Thursday evening, the Pasackow family, whose Church Street clothing store is closing, presented

the H. Hertzel Pasackow Award to Robert Miller of Miller's Landmark, one of downtown's newest businesses.

The award, for architectural excellence, was one of two presented by the Downtown Burlington Development Association to downtown leaders.

The audience of 200 gave a standing ovation to Paul Bruhn, who received the Nate Harris Award as the downtown businessperson of the year.

Bruhn, executive director of the Preservation Trust of Vermont, was recognized for 20 years of behind-the-scenes work in helping to create the Church Street Marketplace and to keep it strong.

''I'm proud to have been part of this Marketplace,'' Jay Pasackow said as he presented the Pasackow award to Miller.

Pasackow said Miller's $3.5 million renovation of the former J.C. Penny building meant that ''what was potential urban decay became a jewel for downtown.''

Miller said he was sad the Pasackow family is closing their business but that he is excited about the Marketplace's future.

Bruhn's work has been less visible than Miller's.

As an aide to Sen. Patrick J. Leahy in the 1970s, Bruhn helped obtain the seven federal grants that helped finance creation of the Church Street pedestrian mall.

Mayor Peter Clavelle praised Bruhn for more recent work, organizing opposition to suburban mega-developments like Wal-Mart and Pyramid mall.

''Paul has been the most persistent and effective organizer of opposition to Pyramid and Wal-Mart . . . and downtown Burlington would not be what it is today if Pyramid or Wal-Mart had been built,'' the mayor said.●

NATO EXPANSION

● Mr. WARNER. Mr. President, one of the critical national security issues that the Senate, and indeed the Nation, is currently facing is the future of the North Atlantic Alliance. NATO, which has been the bedrock of European peace and stability for almost 50 years, is in a period of transition—adjusting to the realities of the post-cold war world. Key among the issues confronting NATO is its possible expansion to include the nations of Central and Eastern Europe, and, possibly, the states of the former Soviet Union.

Last Thursday, June 22, Senator NUNN addressed this issue in a speech to the Supreme Allied Command Atlantic [SACLANT] conference in my State at Norfolk, VA. I have enormous respect for the views of Senator NUNN, my friend and colleague for 17 years in the Senate. We have traveled together extensively and jointly worked on projects such as the Nunn-Warner Nuclear Risk Reduction Centers, currently located in Washington, DC and Moscow.

He is recognized around the world as an expert on national security issues, and in particular on issues related to NATO. While I might not agree with all of the points made in Senator NUNN's speech on NATO expansion, it is a very thoughtful contribution to this important international dialog. I commend it to the attention of my colleagues, and I ask that the text of Senator NUNN's speech be printed in the RECORD.

The text of the speech follows:

THE FUTURE OF NATO IN AN UNCERTAIN WORLD

(By Senator Sam Nunn)

1. INTRODUCTION: THE IMPORTANCE OF NATO ENLARGEMENT

Thank you, General Sheehan, for your kind introduction. Secretary General Claes, NATO Military Committee Chairman Field Marshal Vincent, distinguished NATO ambassadors, distinguished military commanders, distinguished guests, I am honored to be with you this morning to discuss the role of NATO in the post Cold War period.

The pivotal issue of NATO expansion deserves thorough and careful consideration, because it has important ramifications: for the future of NATO; for the countries of central and eastern Europe; for the future of Russia and the other countries of the former Soviet Union; and for the future security and order throughout Europe, east and west.

II. NEW SECURITY SITUATION

NATO was established primarily to protect the Western democracies from an expansionist Soviet Union that seemed determined to spread its influence through subversion, political intimidation and the threat of military force.

When NATO was formed in the late 1940's, Europe was faced with postwar devastation and the emergence of Soviet aggression and confrontation. Western consensus developed around two critical concepts that were decisive in winning the Cold War and in winning the peace; First, Germany and Japan should not be isolated but should be integrated into the community of democratic nations. Second, the western democracies should pursue together a policy of containment, and unite in NATO to carry out this policy.

Integration and containment succeeded; The Berlin Wall is down and Germany is united. Eastern Europe and the Baltics are free at last. The Soviet Empire has disintegrated and Russia is struggling to try to establish a market economy and some semblance of democracy.

For almost half a century, NATO's military strength was our defensive shield against aggression by the Soviet Union, but our offensive sword was our free societies, our innovative and energetic peoples, our free market systems and our free flow of ideas.

With the end of the Cold War, we have witnessed a heart-pounding, terrain-altering set of earthquakes centered in the former Soviet Union and in Easter Europe. These seismic events have ended an international era.

The European security environment has changed. We have moved from a world of high risk, but also high stability because of the danger of escalation and balance of terror, to a world of much lower risk but must less stability. In a strange and even tragic sense, the world has been made safer for racial, ethnic, class and religious vengeance, savagery and civil war. Such tragedy has come to the people of Bosnia, Somalia, Haiti, Rwanda, Burundi, Liberia, Sudan, Tajikistan, Georgia, Azerbaijan, and many others.

The dust has not settled. Bosnia continues to erode NATO's credibility and confidence. Yet it is clear that the overall security and freedom of Europe has dramatically improved.

The Eastern European countries, the Baltic countries, and many of the countries of the former Soviet Union have become fully independent, are turning westward, and are anxious to become part of the European community and to join NATO as full members.

We are no longer preoccupied with the crucial Cold War issue of how much warning time NATO would have in advance of a massive conventional attack westward by the Warsaw Pact.

During the Cold War, we worried about a Soviet invasion deep into Western Europe. As Michael Mandelbaum points out, the current debacle in Chechnya indicates that Russia today has serious trouble invading itself.

Today, our military planners estimate that preparation for a Russian conventional military attack, even against Eastern Europe, would take several years at a minimum—assuming the resources could be found to rebuild the undermanned, underfunded, poorly trained and poorly disciplined Russian military establishment.

Russia itself has gone from being the center of a menacing, totalitarian global empire to an economically-weak, psychologically-troubled country struggling to move toward democracy and a market-based economy.

A multilateral security system is forming across Europe that reduces nuclear and conventional armaments and makes a surprise attack by Russian conventional military forces toward the West increasingly unlikely.

I have in mind the cumulative effect of such agreements as the INF Treaty, the CFE Treaty, the unilateral U.S. and Soviet decisions to reduce tactical nuclear weapons in Europe, the START I and pending START II Treaties, and the pending Chemical Weapons Convention and Open Skies Treaty.

These mechanisms are far from perfect, several await ratification, and they require vigorous verification and full implementation. Yet even at this stage, they significantly enhance warning time that today is measured in years rather than in days or in months.

We are all aware of the dramatic change in the threat environment in Europe resulting from these changes.

The immediate danger is posed by violent terrorist groups; by isolated rogue states, by ethnic, religious, and other types of sub-national passion that can flare into vicious armed conflict. The lethality of any and all of these threats can be greatly magnified by the proliferation of nuclear, chemical and biological weapons, as well as by the spread of destabilizing conventional weapons.

This audience is well aware that Russia currently possesses over 20,000 nuclear weapons, at least 40 thousand tons of chemical weapons, advanced biological warfare capabilities, hundreds of tons of fissile material, huge stores of conventional weapons, plus thousands of scientists and technicians skilled in manufacturing weapons of mass destruction.

This is the first time in history that an empire has disintegrated while possessing such enormous destructive capabilities. Even if these capabilities are greatly reduced, the know-how, the production capability, and the dangers of proliferation will endure for many years. This is the number one security threat for America, for NATO, and for the world.

As we contemplate NATO enlargement, we must carefully measure its effect on this proliferation threat.

In the longer term, we cannot dismiss the possibility of a resurgent and threatening Russia.

Russia not only has inherited the still dangerous remnants of the Soviet war machine. In addition, even in its currently weakened condition, Russia possesses great potential in human and material resources. By virtue of its size and strategic location, Russia exerts considerable weight in Europe, Asia and the Middle East. Meanwhile, Russia has inherited the USSR's veto power in the UN Security Council and therefore has a major voice in multilateral decision making.

Russia will be a major factor, for better or worse, across the entire spectrum of actual and potential threats.

Russia can fuel regional conflicts with high technology conventional weapons, along with political and other material support.

Or Russia can cooperate with us in defusing such conflicts, particularly by preventing the spread of Russian weaponry to irresponsible hands.

Russia can itself emerge as a militarily aggressive power.

Or Russia can assist us in averting new rivalry among major powers that poisons the international security environment.

Russia can pursue a confrontational course that undermines security and cooperation in Europe.

Or it can work with us to broaden and strengthen the emerging system of multilateral security in Europe.

Out of all this background come five fundamental points:

First, preventing or curbing the proliferation of weapons of mass destruction is the most important and most difficult security challenge we face.

Second, Russia is a vast reservoir of weaponry, weapons material and weapons know-how. Thousands of people in Russia and throughout the former Soviet Union have the knowledge, the access, and strong economic incentives to engage in weapons traffic.

Third, increased Russian isolation, paranoia or instability would make this security challenge more difficult and more dangerous.

Fourth, although the West cannot control events in Russia, and probably can assist political and economic reform there only on the margins, as the medical doctors say, our first principle should be DO NO HARM.

Fifth, we must avoid being so preoccupied with NATO enlargement that we ignore the consequences it may have for even more important security priorities.

III. PROBLEMS WITH THE CURRENT APPROACH TO NATO ENLARGEMENT

It is against this background that I offer a few observations on the current approach to NATO enlargement.

NATO's announced position is that the question of enlargement is not whether, but when and how. Somehow I have missed any logical explanation of WHY. I cannot speak of public opinion in other countries, but in America when the enlargement debate focuses on issues of NATO nuclear policy, NATO troop deployments, and formal NATO military commitments—played against the background of repercussions in Russia—somebody had better be able to explain to the American people WHY, or at least WHY NOW.

NATO was founded on a fundamental truth: the vital interests of the countries of NATO were put at risk by the military power and political intimidation of the Soviet Union. As President Harry Truman said in his memoirs: ''The [NATO] pact was a shield against aggression and against the fear of aggression. . . .'' Because NATO was built on this fundamental truth, and because we discussed it openly and faced it truthfully with our people, the alliance endured and prevailed.

Today, we seem to be saying different things to different people on the subject of NATO enlargement.

To the Partnership for Peace countries, we are saying that you are all theoretically eligible and if you meet NATO's entrance criteria (as yet not fully spelled out), you will move to the top of the list.

To the Russians, we are also saying that NATO enlargement is not threat-based and not aimed at you. In fact, you too can eventually become a member of NATO. This raises serious questions.

Are we really going to be able to convince the East Europeans that we are protecting them from their historical threats, while we convince the Russians that NATO's enlargement has nothing to do with Russia as a potential military threat?

Are we really going to be able to convince Ukraine and the Baltic countries that they are somehow more secure when NATO expands eastward but draws protective lines short of their borders and places them in what the Russians are bound to perceive as the ''buffer zone?''

In short, are we trying to bridge the unbridgeable, to explain the unexplainable? Are we deluding others or are we deluding ourselves?

The advantages of NATO's current course toward enlargement cannot be ignored. If NATO expands in the near term to take in the Visegrad countries, these countries would gain in self-confidence and stability. It is possible that border disputes and major ethnic conflicts presumably would be settled before entry—for instance, the dispute involving the Hungarian minority in Romania.

However, the serious disadvantages must be thought through carefully.

For example, my conversations with Russian government officials, members of the Russian parliament across the political spectrum, and non-official Russian foreign policy specialists convince me that rapid NATO enlargement will be widely misunderstood in Russia and will have a serious negative impact on political and economic reform in that country. There are several reasons for this:

At the moment, Russian nationalism is on the rise and reformers are on the defensive. The Russian military establishment and the still huge military-industrial complex that undergirds it are dispirited and resentful.

The average Russian voter has trouble making ends meet, is unsure what the future may hold, but is well aware that Russia has gone from being the seat of a global empire and the headquarters of a military superpower to a vastly weakened international status.

Russian nationalists feed this sense of loss and uncertainty by proclaiming that rapid NATO enlargement is intended to take advantage of a weakened Russia and will pose a grave security threat to the Russian people. Russian demagogues argue that Russia must establish a new global empire to counter an expansionist west. They smile with glee every time NATO expansion is mentioned.

Russian democrats do not see an immediate military threat from an enlarged NATO but fear the reaction of the Russian people. The democrats worry that alarmist messages, however distorted, will set back democracy by increasing popular tolerance for authoritarianism and renewed military spending within Russia, and by isolating Russia from western democracies.

In short, if NATO enlargement stays on its current course, reaction in Russia is likely to be a sense of isolation by those committed to democracy and economic reform, with varying degrees of paranoia, nationalism and demagoguery emerging from across the current political spectrum.

In the next few years, Russia will have neither the resources nor the wherewithal to respond with a conventional military build-up. If, however, the more nationalist and extreme political forces gain the upper hand, by election or otherwise, we are likely to see other responses that are more achievable and more dangerous to European stability. For example:

While Russia would take years to mount a sustained military threat to eastern Europe, it can within weeks or months exert severe external and internal pressure on its immediate neighbors to the west—including the Baltic countries and Ukraine. This could set in motion a dangerous action-reaction cycle.

Moreover, because a conventional military response from Russia in answer to NATO enlargement is infeasible, a nuclear response, in the form of a higher alert status for Russia's remaining strategic nuclear weapons and conceivably renewed deployment of tactical nuclear weapons, is more likely. The security of NATO, Russia's neighbors, and the countries of eastern Europe will not be enhanced if the Russian military finger moves closer to the nuclear trigger.

By forcing the pace of NATO enlargement at a volative and unpredictable moment in Russia's history, we could place ourselves in the worst of all security environments: rapidly declining defense budgets, broader responsibilities, and heightened instability. We will also find ourselves with increasingly difficult relations with the most important country in the world in terms of potential for proliferation of weapons of mass destruction.

This is the stuff that self-fulfilling prophecies, and historic tragedies, are made of.

IV. SPECIFIC RECOMMENDATIONS FOR ALLIANCE POLICY

Where do we go from here? I recognize that it is much easier to criticize than to construct, but I do have a few suggestions.

I suggest a two-track approach to NATO enlargement.

The first track would be evolutionary and would depend on political and economic developments within the European countries who aspire to full NATO membership. When a country becomes eligible for European Union membership, it will also be eligible to join the Western European Union and then be prepared for NATO membership, subject to course to NATO approval.

This is a natural process connecting economic and security interests.

We can honestly say to Russia that this process is not aimed at you.

The second track would be threat-based. An accelerated, and if necessary immediate, expansion of NATO would depend on Russian behavior. We should be candid with the Russian leadership, and above all honest with the Russian people, by telling them frankly:

If you respect the sovereignty of your neighbors, carry out your solemn arms control commitments and other international obligations, and if you continue on the path toward democracy and economic reform, your neighbors will not view you as a threat, and neither will NATO.

We will watch, however, and react:

(1) to aggressive moves against other sovereign states;

(2) to militarily significant violations of your arms control and other legally binding obligations pertinent to the security of Europe;

(3) to the emergence of a non-democratic Russian government that impedes fair elections, suppresses domestic freedoms, or institutes a foreign policy incompatible with the existing European security system.

These developments would be threatening to the security of Europe and would require a significant NATO response, including expansion eastward. We would be enlarging NATO based on a real threat. We would not, however, be helping to create the very threat we are trying to guard against.

Finally, Partnership for Peace is a sound framework for this two-track approach. Its role would be to prepare candidate countries and NATO itself for enlargement on either

track. Programs of joint training and exercises, development of a common operational doctrine, and establishment of inter-operable weaponry, technology and communications would continue, based on more realistic contingencies. Tough issues such as nuclear policy and forward stationing of NATO troops would be discussed in a threat-based framework, one which we hope would remain theoretical.

As the Russian leaders and people make their important choices, they should know that Russian behavior will be a key and relevant factor for NATO's future. This straightforward approach is also important for our citizens, who will have to pay the bills and make the sacrifices required by expanded NATO security commitments.

The profound historical contrast between post-World War I Germany and post-World War II Germany should tell us that neo-containment of Russia is not the answer at this critical historical juncture. If future developments require the containment of Russia, it should be real containment, based on real threats.●

CELEBRATING THE CENTENNIAL OF THE CHURCH PUBLIC SCHOOL

● Mr. LEVIN. Mr. President, I am pleased to call the attention of my colleagues to an institution in Michigan that is celebrating their 100th anniversary. On July 9, 100 years ago land for the church school, formally known as Lincoln No. 2, was deeded to the school district by Julius and Sophia Labute for the price of $49.50. The Huron Tribune posted a notice on June 21, 1895, that requested sealed tenders for the erection of a veneered schoolhouse in District No. 2, Township of Lincoln.

While the complete records of who taught at the school that first year were not preserved, we do know that the school was completed and was most likely in session because of June Nelson who authored the story, A Long Trek. The story is one of many in Ms. Nelson's book entitled ''Tales From the Tip of the Thumb.'' The story tells of a wagon train leaving from Filion, MI, in October 1895 and the travelers were looking for a map of the United States. One of them remembered that the new Lincoln No. 2 schoolhouse on the corner had such a map in its geography chart and they had no trouble obtaining it in the middle of the night.

For 100 years that schoolhouse on the corner has taught thousands of students the basic building blocks that lead to a life of learning. I congratulate them on a century of success and wish them well as they enter the new millennium with the timeless values that have served them and their students well since the 19th century.●

NATIONAL INFORMATION INFRASTRUCTURE PROTECTION ACT OF 1995

● Mr. KYL. Mr. President, I ask that S. 982, the National Information Infrastructure Protection Act of 1995, be printed in the RECORD.

The text of the bill follows:

S. 982

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Information Infrastructure Protection Act of 1995''.

SEC. 2. COMPUTER CRIME.

Section 1030 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking ''knowingly accesses'' and inserting ''having knowingly accessed'';

(ii) by striking ''exceeds'' and inserting ''exceeding'';

(iii) by striking ''obtains information'' and inserting ''having obtained information'';

(iv) by striking ''the intent or'';

(v) by striking ''is to be used'' and inserting ''could be used''; and

(vi) by inserting before the semicolon at the end the following: ''willfully communicates, delivers, transmits, or causes to be communicated, delivered, or transmitted, or attempts to communicate, deliver, transmit or cause to be communicated, delivered, or transmitted the same to any person not entitled to receive it, or willfully retains the same and fails to deliver it to the officer or employee of the United States entitled to receive it'';

(B) in paragraph (2)—

(i) by striking ''obtains information'' and inserting ''obtains—

''(A) information''; and

(ii) by adding at the end the following:

''(B) information from any department or agency of the United States; or

''(C) information from any protected computer if the conduct involved an interstate or foreign communication;'';

(C) in paragraph (3)—

(i) by striking ''the use of the Government's operation of such computer'' and inserting ''that use by or for the Government of the United States''; and

(ii) by striking ''adversely'';

(D) in paragraph (4)—

(i) by striking ''Federal interest'' and inserting ''protected''; and

(ii) by inserting before the semicolon the following: ''and the value of such use is not more than $5,000 in any 1-year period'';

(E) by amending paragraph (5) to read as follows:

''(5)(A) knowingly causes the transmission of a program, information, code, or command, and as a result of such conduct, intentionally causes damage without authorization, to a protected computer;

''(B) intentionally accesses a protected computer without authorization, and as a result of such conduct, recklessly causes damage; or

''(C) intentionally accesses a protected computer without authorization, and as a result of such conduct, causes damage;''; and

(F) by inserting after paragraph (6) the following new paragraph:

''(7) with intent to extort from any person, firm, association, educational institution, financial institution, government entity, or other legal entity, any money or other thing of value, transmits in interstate or foreign commerce any communication containing any threat to cause damage to a protected computer;'';

(2) in subsection (c)—

(A) in paragraph (1), by striking ''such subsection'' each place it appears and inserting ''this section'';

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) by inserting '', (a)(5)(C),'' after ''(a)(3)''; and

(II) by striking ''such subsection'' and inserting ''this section'';

(ii) by redesignating subparagraph (B) as subparagraph (C);

(iii) by inserting immediately after subparagraph (A) the following:

''(B) a fine under this title or imprisonment for not more than 5 years, or both, in the case of an offense under subsection (a)(2), if—

''(i) the offense was committed for purposes of commercial advantage or private financial gain;

''(ii) the offense was committed in furtherance of any criminal or tortuous act in violation of the Constitution or laws of the United States or of any State; or

''(iii) the value of the information obtained exceeds $5,000;''; and

(iv) in subparagraph (C) (as redesignated), by striking ''such subsection'' and inserting ''this section'';

(C) in paragraph (3)—

(i) in subparagraph (A)—

(I) by striking ''(a)(4) or (a)(5)(A)'' and inserting ''(a)(4), (a)(5)(A), (a)(5)(B), or (a)(7)''; and

(II) by striking ''such subsection'' and inserting ''this section''; and

(ii) in subparagraph (B)—

(I) by striking ''(a)(4) or (a)(5)'' and inserting ''(a)(4), (a)(5)(A), (a)(5)(B), (a)(5)(C), or (a)(7)''; and

(II) by striking ''such subsection'' and inserting ''this section''; and

(D) by striking paragraph (4);

(3) in subsection (d), by inserting ''subsections (a)(2)(A), (a)(2)(B), (a)(3), (a)(4), (a)(5), and (a)(6) of'' before ''this section.'';

(4) in subsection (e)—

(A) in paragraph (2)—

(i) by striking ''Federal interest'' and inserting ''protected'';

(ii) in subparagraph (A), by striking ''the use of the financial institution's operation or the Government's operation of such computer'' and inserting ''that use by or for the financial institution or the Government''; and

(iii) by amending subparagraph (B) to read as follows:

''(B) which is used in interstate or foreign commerce or communication;'';

(B) in paragraph (6), by striking ''and'' the last place it appears;

(C) by striking the period at the end of paragraph (7) and inserting ''; and''; and

(D) by adding at the end the following new paragraphs:

''(8) the term 'damage' means any impairment to the integrity or availability of data, a program, a system, or information, that—

''(A) causes loss aggregating at least $5,000 in value during any 1-year period to one or more individuals;

''(B) modifies or impairs, or potentially modifies or impairs, the medical examination, diagnosis, treatment, or care of one or more individuals;

''(C) causes physical injury to any person; or

''(D) threatens public health or safety; and

''(9) the term 'government entity' includes the Government of the United States, any State or political subdivision of the United States, any foreign country, and any state, province, municipality, or other political subdivision of a foreign country.''; and

(5) in subsection (g)—

(A) by striking '', other than a violation of subsection (a)(5)(B),''; and

(B) by striking ''of any subsection other than subsection (a)(5)(A)(ii)(II)(bb) or (a)(5)(B)(ii)(II)(bb)'' and inserting ''involving damage as defined in subsection (e)(8)(A)''.●

HOT AIR BAKING ALASKA

● Mr. STEVENS. Mr. President, I ask that the following article be printed in the RECORD.

The article follows:

[From the Washington Times, June 9, 1995]

HOT AIR BAKING ALASKA

(By Alston Chase)

Our helicopter swooped down on a black bear that was lazily grazing lush grass beside a crystal clear mountain river. Around him, I could see an intense green mosaic of meadows and, beyond them, thick forests that stretched to the skyline, where dark peaks loomed through the mist.

I was flying over the Thorne River on Prince of Wales Island in Southeast Alaska's Tongass National Forest—a stream that in April the conservation group American Rivers, claiming that ''extensive logging'' would harm ''potentially threatened'' creatures, designated one of the country's ''most endangered'' rivers.

But environmentalists, I discovered, had things backward. Prince of Wales, which has been extensively logged, is thriving. By contrast, more than 96 percent of the Tongass remains untouched, yet is dying.

For more than a decade, various groups have insisted that the Tongass, ''America's rain forest,'' is in deep trouble due to unprincipled logging. I found that while this region is indeed at risk, the culprit is conservationism. The Thorne, in particular, is flourishing.

Contrary to activist claims, the Forest Service manages it as a ''Scenic and Recreational River'' and plans no logging there, except in a tiny portion of one tributary. Where harvests are under consideration, they would be prohibited within a half-mile of any stream. And although 21 percent of the drainage has already been logged—much of it long ago—pink salmon runs have risen from lows of 300 in the 1960s to highs of 350,000 in the 1990s.

This reveals what foresters know: that in this land which annually receives 160 inches of rain and where trees grow like weeds, logging can be nature's best friend. Properly harvested, these forests could grow at the rate of 1.35 billion board feet a year. But left alone, they are dying. Meanwhile, the lack of cutting ensures few recreational opportunities are available for ordinary people. Dotted with muskeg swamps, littered with deadfall and covered with a solid curtain of densely packed trees, the land is nearly impenetrable. Only the super-rich can afford the helicopters needed to reach camping and fishing spots in its interior.

That is what makes Prince of Wales different. Thanks to logging, it is experiencing phenomenal tree growth and has a wonderful road and trail network that puts the lakes and streams within reach of hikers.

Unfortunately, such accessibility displeases the scions of Grosse Point and the Barons of the Beltway, whose largess and appetite for power sustains the environmental movement. These elite prefer to keep the Tongass so remote its choice spots can only be reached by qualified governmental authorities or refined persons such as themselves, who have access to, or can afford, guides and helicopters. So to make their playground safe from democracy, they successfully lobbied and litigated to reduce harvest plans until, today, cutting approaches zero.

Of the Tongass' 17 million acres, 10 million are forested, and of that 5.7 million are accessible for ''commercial'' forestry. In 1980, federal legislation set aside around 1.6 million of this as wilderness. After the 1990 Tongass Timber Reform Act and other conservation measures, only 1.71 million was left for logging. And 400,000 of that was second-growth that could not be ready to cut for 40 years. Now, the Clinton administration has invoked the Endangered Species Act to create Habitat Conservation Areas totaling 600,000 acres of the remainder for ''potentially endangered species.''

Thus, of the Tongass' 17 million acres, 600,000 is actually available for logging. In a forest that grows more than a billion board feet annually, loggers last year cut a mere 276 million. And as harvests plummet, mills close and unemployment rises. In 1989, the pulp mill in Sitka ran out of logs and closed its doors, and last winter, the saw mill in Wrangell went belly up for the same reason. And while Alaska's congressmen promise to open the forest, the citizens of this region are not optimistic. They have heard that kind of talk before.

Citizens of the Tongass are victims of phoney science that supposes mythical ''ecosystem health'' is more important than people; of preservation laws that provide lush grazing for activist attorneys; of shark pack activists who ride piggyback on each others' media campaigns, repeating half-truths until the public believes them; of federal subsides to groups who sue ''to protect the environment;'' of public ignorance and activist propaganda; of media arrogance and government's inexorable urge to grow.

They wonder when America will learn the truth: that without logging, trees die and people suffer. Without logging, the Tongass will remain an exclusive preserve of the affluent or anointed, who don't deserve it.

They know this is a national outrage. But they wonder: Does anyone in Washington care?●

THE DISASTER VICTIMS CRIME PREVENTION ACT OF 1995

● Mr. AKAKA. Mr. President, shortly after the Senate returns from the Fourth of July recess, I plan to introduce the Federal Disaster Preparedness and Response Act of 1995. This bill will be very similar to the measure I offered in the 103d Congress with Senator GLENN and GRAHAM of Florida.

It is very appropriate to announce my intention to reintroduce this legislation as we debate the conference report on the supplemental disaster bill. We are all aware of the tremendous costs incurred during a natural disaster. What many of us are unaware of is the need to combat fraud against victims of Federal disasters. The legislation I plan to introduce would make it a Federal crime to defraud persons through the sale of materials or services for cleanup, repair, and recovery following a federally declared disaster.

Because of instant media coverage of the destruction caused by these catastrophic events, we are able to see first-hand the concern of others, such as Red Cross volunteers passing out blankets and food and citizens traveling hundreds of miles to help rebuild strangers' homes.

Despite the outpouring of public support that follows these catastrophes, there are unscrupulous individuals who prey on trusting and unsuspecting victims. This measure would criminalize some of the activities undertaken by these unprincipled people whose sole intent is to defraud hard-working men and women.

Every disaster has examples of individuals who are victimized twice—first by the disaster and later by unconscionable price hikes and fraudulent contractors. In the wake of the 1993 Midwest flooding, Iowa officials found that some vendors raised the price of portable toilets from $60 a month to $60 a day! In other flood-hit areas, carpet cleaners hiked their prices to $350 per hour, while telemarketers set up telephone banks to solicit funds for phony flood-rated charities.

Nor will television viewers forget the scenes of beleaguered South Floridians buying generators, plastic sheeting, and bottled water at outrageous prices in the aftermath of Hurricane Andrew.

After Hurricane Iniki devastated the Island of Kauai, a contractor promising quick home repair took disaster benefits from numerous homeowners and fled the area without completing promised construction.

While the Stafford Natural Disaster Act currently provides for civil and criminal penalties for the misuse of disaster funds, it fails to address contractor fraud. To fill this gap, my legislation would make it a Federal crime to fraudulently take money from a disaster victim and fail to provide the agreed upon material or service for the cleanup, repair, and recovery.

The Stafford Act also fails to address price gouging. Although it is the responsibility of the States to impose restrictions on price increases prior to a Federal disaster declaration, Federal penalties for price gouging should be imposed once a disaster has been declared. I am pleased to incorporate in this measure an initiative Senator GLENN began following Hurricane Andrew to combat price gouging and excessive pricing of goods and services.

There already is tremendous cooperation among the various State and local offices that deal with fraud and consumer protection issues and it is quite common for these fine men and women to lend their expertise to their colleagues from out-of-State during a natural disaster. This exchange of experiences and practical solutions has created a strong support network.

However, a Federal remedy is needed to assist States when a disaster occurs. There should be a broader enforcement system to help overburdened State and local governments during a time of disaster. The Federal Government is in a position to ensure that residents within a federally declared disaster area do not fall victim to fraud. Federal agencies should assist localities to provide such a support system.

In addition to making disaster-related fraud a Federal crime, this bill would also require the Director of the Federal Emergency Management Agency to develop public information materials to advise disaster victims about ways to detect and avoid fraud. I have seen a number of anti-fraud material prepared by State consumer protection

offices and believe this section would assist States to disseminate anti-fraud related material following the declaration of a disaster by the President.

I look forward to working with my colleagues in enacting this legislation.●

THE UNITED NATIONS AT 50

● Mr. SARBANES. Mr. President, 50 years ago this week in San Francisco, the U.N. Charter was opened for signature. After some 9 weeks of negotiations, as World War II was drawing to a close, representatives from 50 countries unanimously adopted the charter. On the 24th of October 1945, the charter came into force, and the United Nations was effectively born.

During this, the 50th anniversary year of the United Nations, I am deeply concerned that, rather than celebrating its endurance, we are witnessing a disturbing series of attacks upon it. Ironically, these attacks come at a challenging time for the United Nations. For now, with the end of the cold war, the United Nations has a genuine opportunity to function as it was intended to at the end of World War II.

For many years, a constant Soviet veto in the Security Council effectively neutralized the United Nations. Between 1946 and 1970, for example, the Soviet Union vetoed Security Council actions more than 100 times before the United States even cast its first veto.

But the United States chose to persevere within the existing U.N. framework. Even when casting their votes in 1945 to support ratification of the U.N. Charter, Senators recognized the challenging agenda faced by the United Nations in the years ahead. Senator Mead, a Democrat from New York, offered the following admonition:

> The Charter is not a key to utopia. Words written upon paper have no power in and of themselves to alter the course of events. It is only the spirit of men and nations behind those words which can do that.

Today we continue to face the question: What kind of spirit do we wish to guide our discussion of the United Nations in 1995?

There are two sharply contrasting directions in which our discussion of the United Nations can proceed. One is tantamount to withdrawing U.S. support from the United Nations by constantly searching out ways of undermining and weakening the institution. Unfortunately there are legislative proposals before this Congress which would move in this direction. Alternatively, we could apply our energies toward ensuring that the United States plays a key role in reforming and strengthening the United Nations as we prepare to enter a new century. I strongly believe that the hope of building a peaceful and prosperous world lies in choosing the latter course.

There have been times in our history when Americans believed that we could go it alone and simply ignore conflicts and problems originating in other parts of the world. Indeed, isolationist sentiment succeeded in preventing the United States from joining the League of Nations at the end of World War I, despite the fact that President Woodrow Wilson was its leading architect.

Those who labored in San Francisco and elsewhere to create the United Nations half a century ago learned from the mistakes of their predecessors with respect to the League of Nations. Parties to the initial negotiations at Dumbarton Oaks on establishing a United Nations, and to later preparations in San Francisco, insisted, for example, that the U.N. organization recognize the reality of great powers by granting significant authority to a Security Council. In that Council, the United States and other major powers were given the veto power—thereby ensuring that the United Nations could not undertake operations which United States opposed. In recognition of the leadership role taken by the United States in building the United Nations, New York was later chosen to serve as U.N. headquarters.

Ensuring responsible U.S. engagement within the United Nations in 1995 remains nearly as demanding as in 1945. Much of the advice offered by Senator Gurney, a Republican from South Dakota, to his Senate colleagues in 1945 rings true today:

> . . . let me caution that after our almost unanimous vote for the Charter today we cannot merely sit back and feel and say, ''Everything is fixed now, everyone is safe.'' No; our people are entitled by their sacrifices in this war and others to more than that. We and all other nations must give the Charter organization the all-out support of all our people—sincere, honest support, continuing for years to come—in order that this world organization may be a growing, living instrumentality, capable of handling world problems in a fair and effective way.

Even as we mark the United Nation's first 50 years, we must look to the challenges of a new century. In past decades, others designed the United Nations, drafted the charter, passed the enabling legislation, and persevered throughout the cold war. The task facing us in this decade is to assist the United Nations to adapt to the end of the cold war and to a new century. The need for a United Nations remains clear, for, as Madeleine Albright, the U.S. representative to the United Nations, has commented:

> The battle-hardened generation of Roosevelt, Churchill and De Gaulle viewed the U.N. as a practical response to an inherently contentious world; a necessity not because relations among states could ever be brought into perfect harmony, but because they cannot.

This sense of realism seems absent from many of the current discussions of the United Nations. While many rail about the deficiencies of the United Nations, they have not proposed a viable alternative to the United Nations. If we look back at the debate 50 years ago, we see that Senators recognized the necessity of U.N. membership partly because they acknowledged the absence of an alternative.

While the United Nations work for peace and prosperity has never been easy, current challenges to peace have grown more complex partly because the nature of the conflicts the United Nations is asked to address has changed. Complex interethnic conflicts are resurfacing after having been suppressed. Guerrilla warfare is increasingly conducted by warring factions who do not respond to political or economic pressure. Conflict is frequently within borders and involves militias and armed civilians who lack discipline and clear chains of command. Disputes often take place without clear front lines. The fact that combatants often target civilians leads to increasing numbers both of displaced persons and refugees.

In an effort to address such conflicts, the United Nations has expanded its operational responsibilities. As a result, U.N. peacekeeping missions have been deployed in places like Somalia or Rwanda where personnel must grapple with the fact that no effective state structure exists. In many trouble sports, the police and judiciary have collapsed, and general banditry and chaos prevail. Government assets have been destroyed and stolen; experienced officials have been killed or forced to flee the country. These realities are forcing the U.N. personnel to reconsider their terms of reference and to grapple with inadequate mandates. The truth is that the United Nations has been asked to handle some of the most uncertain, intractable, and dangerous cases of conflict.

Clearly, the United Nations must be practical about the limits of its peacekeeping and must not undertake efforts that will drain U.N. resources without achieving the mission's goals. It is frustrating not to be able to resolve all the many conflicts on the international agenda, but do we abandon the United Nations if it cannot completely and successfully solve every problem in our world? Few institutions dealing with such complex matters (or for that matter much simpler ones) have 100-percent success records.

In 1945, President Truman made an observation that is relevant to the current examination of U.N. peacekeeping efforts. He said,

> Building a peace requires as much moral stamina as waging a war. Perhaps it requires even more, because it is so laborious and painstaking and undramatic. It requires undying patience and continuous application. But it can give us, if we stay with it, the greatest reward that there is in the whole field of human effort.

I believe Americans recognize the wisdom of President Truman's words and want to do their part; the United Nations is one means by which they can do so.

While U.N. peacekeeping has recently been the focus of attention, much of the United Nations work takes place in other areas. Less in the spotlight are the steadfast efforts of U.N. agencies

working to alleviate poverty, to slow the spread of HIV/A.I.D.S., and to feed and educate the world's children. Where conflict leads to destabilization of families and societies, the United Nations is there to shelter and feed refugees and displaced persons. Progress made on upholding international norms on human rights also stems from the work of U.N. agencies. Finally, the United Nations is responsible for many of the gains made in reducing the use of ozone-depleting substances, evaluating environmental impacts, and conserving biological diversity. These are but a few of the challenges facing the world today. Many of these problems have effects that do not respect national or geographic borders, and the United Nations offers a coherent and coordinated approach for meeting such challenges.

Mr. President, whether Americans feel the responsibility of exercising global leadership, are responding to humanitarian concerns, or seeking to expand opportunities for international trade and commerce, the United Nations offers us a critical world forum. to cripple the United Nations by an erosion or withdrawal of American participation would be a terrible mistake. The United Nations provides the institutional means for leveraging American diplomatic, economic, and military resources in ways that enhance our vital National interests. Opinion surveys consistently indicate that a solid majority of the American people recognize the positive role that the United Nations can play. I hope such recognition of the United Nations value and importance will be demonstrated when the Senate considers U.S. participation in and support for the United Nations. Let us heed the words of warning offered by President Truman in 1945: ''The immediate, the greatest threat to us is the threat of disillusionment, the danger of insidious skepticism—a loss of faith in the effectiveness of international cooperation.''●

ONE HUNDRED YEARS IN HARDWARE

● Mr. LEVIN. Mr. President, my hearty congratulations to the Michigan Retail Hardware Association on its 100th anniversary. This fine organization has been serving the hardware, home center, and lumber industry since July 9, 1895, when it was founded in Detroit. In reaching this milepost, they have weathered the years, surviving wars and depression, growing to be a robust and vigorous organization.

The backbone of this association is in the ranks of the hundreds of small business men and women who stand behind those hardware store counters each day, ready to serve their customers with a smile and a helping hand. Those weekend chores we all face, to fix up or cleanup our homesteads, becomes a pleasant endeavor after that cheerful visit to the neighborhood hardware store.

Over the years business leaders in this enterprise have come together and prospered, exercising that grand democratic tradition of flexing their common interests and gathering strength in numbers. By coming together, the members of the Michigan Retail Hardware Association make our communities and our economy solid, the skills of managers and workers are fortified, and camaraderie and good fellowship grows.

The trip to the hardware store has become a valued ritual for American families as they labor to make improvements on hearth and home. As we build and fix and sand and paint, we look to our hardware centers to give us the tools and gadgets we need to make our lives more comfortable and bright. For me, the nostalgia of the hardware store is that no small town in America really seems complete without a hardware store plunked down in the middle of Main Street.

My best wishes for this business group on the centennial anniversary of their founding. My best hopes for many more additional years of productivity ahead.●

HOUSE CUTS CRIME-FIGHTING DOLLARS

● Mr. BIDEN. Mr. President, I rise to offer my strong opposition to actions taken by the House Commerce/State/Justice Appropriations Subcommittee earlier this week. In passing the 1996 appropriation's bill the subcommittee Republicans have set off on a course which would cripple Federal, State, and local efforts to combat crime. If the subcommittee Republicans' plan is adopted: New FBI agents will not be hired; 20,000 State and local police will not be hired; thousands of wife-beaters will not be arrested, tried or convicted; new DEA agents will not be hired; 80,000 offenders released on probation will not be tested for drugs or subject to certain punishment; and digital telephony technology vital to law enforcement will not be developed.

First, let me address the cuts to Federal law enforcement. The President requested an increase of $122 million for FBI agents and other FBI activities—but the subcommittee Republicans cut $45 million from that request.

I would also point out that the subcommittee Republicans provides no dollars of the $300 million authorized for FBI in the Dole/Hatch counter-terrorism bill. This legislation has not passed into law, so some might say that is the reason that none of these dollars are made available. But, the subcommittee Republicans did find a way to add their block grant which passed the House, but not the Senate.

So, I do not think there is any explanation for cutting the FBI other than a fundamental lack of commitment to Federal law enforcement by the subcommittee Republicans. I have heard time and again over the past several months from my Republican colleagues in the Senate that the President was not committed to Federal law enforcement. I have heard time and again from my Republican colleagues that they would increase funding for Federal law enforcement.

Well, something just does not add up—House subcommittee Republicans will not give the President the increase he requested for the FBI, despite all the rhetoric I have heard over the past several months.

The cuts to Federal law enforcement do not even stop there. The House subcommittee Republicans cut $17 million from the $54 million boost requested for DEA agents by the administration. That is more than a 30-percent cut. The House subcommittee Republicans provide no dollars of the $60 million authorized for DEA in the Dole/Hatch counterterrorism bill.

Let me review another area where the actions of these subcommittee Republicans are completely opposite the rhetoric I have heard from the other side here in the Senate.

The Violence Against Women Act—having first introduced the Violence Against Women Act 5 years ago, I had welcomed the bipartisan support finally accorded the act last year. I would note the strong support provided by Senators HATCH and DOLE.

But, when we have gotten past the rhetoric and it came time to actually write the check in the Appropriations Subcommittee, the women of America were mugged. The President requested $175 million for the Justice Department's violence against women programs, and the House subcommittee Republicans have provided less than half—$75 million.

While the specific programs have not been yet identified, that $100 million will mean the key initiatives will not get the funding that everyone on both sides of the aisle agreed they should: $130 million was requested for grants to State and local police, prosecutors and victims groups; $28 million was requested to make sure that every man who beats his wife or girlfriend is arrested; $7 million was requested for enforcement efforts against family violence and child abuse in rural areas; and $6 million was requested to provide special advocates for abused children who come before a court.

I keep hearing about how the Violence Against Women Act is a bipartisan effort. In all the new so-called crime bills I have seen proposed by Members of the other side, not once have I seen any effort to repeal or cut back on any element of the Violence Against Women Act. But, the actions of the House subcommittee Republicans tell a completely different story.

To discuss yet another troubling aspect of the House subcommittee Republican bill—this bill eliminates the $1.9 billion sought for the second year of the 100,000 police program. That $1.9

billion would put at least 20,000 more State and local police officers on the streets—and probably many more, for the $1.1 billion spent so far this year has put well over 16,000 more police on the streets.

What happens to the $1.9 billion? In the House Republican bill, these dollars are shifted to a LEAA-style block grant for ''a variety of programs including more police officers, crime prevention programs, drug courts and equipment and technology,'' quoting the summary provided by the House Republicans on the subcommittee.

In other words, not $1 must be spent to add State and local police officers. I keep hearing about support for State and local police from the other side of the aisle. But, just when it really matters, just when we are writing checks and not just making speeches, America's State and local police officers are being ripped-off. Instead of a guarantee that police officers and police departments get each and every one of these $1.9 billion, the House subcommittee Republicans propose empty deal—money in the same type of grants that failed in the 1970's and under standards so lax that America's police could wait through all next year without a single dollar.

Mr. President, I hope that the actions of the House Republicans on the subcommittee are reversed in the full Appropriations Committee. And if not there, then I hope these actions will be reversed on the floor of the House.

But, if the House Republicans stand with the subcommittee and against Federal law enforcement, against FBI agents, against DEA agents, against the women of America, and against State and local police officers, I urge all my colleagues in the Senate to stand by the positions they have taken all year and stand up to the House Republicans.●

SENATOR PELL AND THE U.N. CHARTER

● Mr. MOYNIHAN. Mr. President, last weekend I was honored to have participated in the ceremonies in San Francisco commemorating the 50th anniversary of the signing of the U.N. Charter. The event was an important reaffirmation of the commitment of member nations to abide by the rule of law.

The ceremonies were enriched by the participation of those who had participated in the conference 50 years ago. We in the Senate are honored to have the beloved former chairman of the Senate Foreign Relations Committee, CLAIBORNE PELL, counted among those who were ''Present at the Creation'' of the Charter.

Senator PELL served throughout World War II in the Coast Guard. He continued to serve his country, as he has all his life, when he was called to be a member of the International Secretariat of the San Francisco Conference, as it worked to draft the Charter. Senator PELL served as the Assistant Secretary of Committee III, the Enforcement Arrangements Committee, and worked specifically on what became articles 43, 44, and 45 of the Charter.

In an article in the New York Times by Barbara Crossette, Senator PELL recalls the trip to San Francisco:

It started out just right, he recalled in a recent conversation in his Senate office. Instead of flying us to San Francisco, they chartered a train across the United States.

You could see the eyes of all those people who had been in wartorn Europe boggle as we passed the wheat fields, the factories, he said. You could feel the richness, the clean air of the United States. It was a wonderful image. We shared a spirit, a belief, that we would never make the same mistakes; everything would now be done differently.

Senator PELL's commitment to the Charter was properly noted by the President, when during his address in San Francisco on Monday, he stated ''Some of those who worked at the historic conference are still here today, including our own Senator CLAIBORNE PELL, who to this very day, every day, carries a copy of the U.N. Charter in his pocket.''

On Sunday, the Washington Post carried an article by William Branigin on the drafting of the Charter. I ask that it be printed in the RECORD.

The article follows:

[From the Washington Post, June 25, 1995]

U.N.: 50 YEARS FENDING OFF WWIII—CHARTER FORGED IN HEAT OF BATTLE PROVES DURABLE, AS DO ITS CRITICS

(By William Branigin)

UNITED NATIONS.—It was the eve of her first speech before the 1945 organizing conference of the United Nations, and Minerva Bernardino was eager to seize the opportunity to push for women's rights. Then, while serving drinks to fellow delegates in her San Francisco hotel suite, she fell and broke her ankle.

For the determined diplomat from the Dominican Republic, however, nothing was more important than delivering her speech. So after being rushed to the hospital in an ambulance, she refused a cast, had doctors tape up her ankle instead and enlisted colleagues the next day to help her hobble to the podium.

Bernardino, 88, is one of four surviving signatories of the U.N. Charter, which was hammered out during the two-month conference by representatives from 50 nations and signed in San Francisco on June 26, 1945. With a handful of other women delegates, she claims credit for the charter's reference to ''equal rights of men and women.''

Just as she witnessed the birth of the United Nations that day in the presence of President Harry S. Truman, Bernardino plans to be in the audience Monday when President Clinton caps the 50th birthday ceremonies with a speech at San Francisco's War Memorial Opera House, scene of the historic conference. Truman, whose first decision after taking office in April 1945 was to go ahead with the conference, had flown to San Francisco to carry the charter back to Washington for ratification by the Senate.

Gathering for the anniversary are envoys from more than 100 countries, senior U.N. officials led by Secretary General Boutros Boutros-Ghali, Britain's Princess Margaret and several Nobel peace prize laureates, including Polish President Lech Walesa and South Africa's Archbishop Desmond Tutu.

In creating the United nations 50 years ago, the more than 1,700 delegates and their assistants were driven by the horror of a war that had cost an estimated 45 million lives. Among the founders were prominent diplomats: Vyacheslav Molotov and Andrei Gromyko of the Soviet Union, Edward R. Stettinius of the United States and Anthony Eden of Britain. The sole surviving U.S. signatory is Harold Stassen, the former Republican governor of Minnesota and presidential aspirant, now 88.

The leading conference organizer was its secretary general, Alger Hiss, then a rising star in the State Department. He later spent four years in prison for perjury in a controversial spy case that launched the political ascent of Richard M. Nixon. Now 90, in poor health and nearly blind, Hiss has been invited to the commemoration but is unable to attend.

''We had a sense of creation and exhilaration,'' said Sen. Claiborne Pell (D-R.I.), who was then a young Coast Guard officer attached to the conference's secretariat. World War II was drawing to a close, and the assembled delegates were determined to put into practice their lofty ideals of a peaceful new world order.

As the United Nations celebrates its golden anniversary, however, the world body seems to be under criticism as never before. The credibility it gained after the end of the Cold War and its role in the Persian Gulf conflict seem to have been largely squandered by debacles in Somalia, Angola and Bosnia, by its tardy response to carnage in Rwanda and by its inability so far to undertake serious internal reforms.

From relatively lean beginnings with 1,500 staffers, the United Nations has burgeoned into a far-flung bureaucracy with more than 50,000 employees, plus thousands of consultants. In many areas, critics say, it has become a talk shop and paper mill plagued by waste, mismanagement, patronage and inertia.

Although most Americans strongly support the United Nations, a ''hard core of opposition'' to the body appears to be growing, according to a new poll by the Times Mirror Center for the People and the Press. It showed that 67 percent of Americans hold a favorable attitude toward the United Nations, compared to 53 percent for Congress and 43 percent accorded the court system.

However, the poll showed, 28 percent expressed a ''mostly'' or ''very'' unfavorable opinion of the United Nations, the highest of four such polls since 1990.

In fact, after the demise of the ''red menace'' with the end of the Cold War, the organization seems to have become something of a lightning rod for extreme right-wing groups, which see it as part of a plot to form a global government.

For the United Nations, the 50th birthday bash is an opportunity to trumpet a list of achievements. To celebrate the occasion, the organization is spending $15 million, which it says comes entirely from voluntary contributions.

Over the years, U.N. officials point out, the world body and its agencies have performed dangerous peacekeeping missions, promoted decolonization, assisted refugees and disaster victims, helped eradicate smallpox, brought aid and services to impoverished countries and won five Nobel peace prizes.

At the same time, the anniversary is focusing attention on the organization's shortcomings and on efforts to chart a new course for its future. Among the proposals in a recent study funded by the Ford Foundation, for example, are expanding the Security Council, curtailing veto powers, establishing a permanent U.N. armed force and creating an international taxation system to help finance the organization.

As the United Nations has expanded, some of its agencies have lost their focus and become bogged down in tasks that duplicate efforts elsewhere in the system or serve little purpose but to employ bureaucrats, critics charge. Meanwhile, financing problems have grown acute, especially with the explosion in recent years of expenses for peacekeeping, a function that was not specifically spelled out in the original charter.

The U.N. peacekeeping budget this year bulged to $3.5 billion, far exceeding the regular U.N. budget of $2.6 billion. Moreover, several countries, including the United States, owe U.N. dues totaling hundreds of millions of dollars. Unpaid peacekeeping dues for Bosnia alone come to $900 million.

The Bosnian quagmire has underscored the limits of U.N. peacekeeping. Critics, notably in the U.S. Congress, have tended to blame U.N. bureaucrats for the mess, while U.N. officials say the operation exemplifies a penchant by member states for setting heavy new mandates without providing the resources to carry them out.

''Member countries should take advantage of the 50th anniversary to really look hard at the U.N. and to revise and strengthen it,'' said Catherine Gwin of the Washington-based Overseas Development Council. ''Increased demands are being made on an organization that has been neglected, misused and excessively politicized by its member governments for years, and it is showing the strain.''

As the United Nations has expanded, forming entities that deal with topics from outer space to seabeds, the original purpose often has been overlooked. That is, as the U.N. Charter's preamble states, ''to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind.''

While scores of conflicts costing millions of lives have broken out since that signing 50 years ago, some of the organization's promoters say it deserves a share of credit for averting its founders' worst nightmare: World War III. Clearly, the atomic bombing of Hiroshima and Nagasaki and the subsequent nuclear standoff between the United States and the Soviet Union may have been the main deterrents, but the world body also played a role, U.N. supporters say.

''If we didn't have the United Nations, we would have had another world war,'' said Bernardino in an interview in her New York apartment, where she keeps an office filled with U.N. mementos. On her desk is a large silverframed, personally dedicated photograph of her role model, Eleanor Roosevelt, and in her drawer is an original signed copy of the U.N. Charter.

At the time of the signing, U.S. public opinion held that there would be a third world war by the early 1970s, Stassen said.

''We believed we were going to stop future Hitlers from future acts of aggression,'' said Brian Urquhart, a Briton who joined the United Nations shortly after the conference and rose to become an undersecretary general. ''There was an enormous sense of confidence and optimism in the charter . . . led by the Untied States. This was predominantly a U.S. achievement.''

Indeed, the United Nations was principally the brainchild of President Franklin D. Roosevelt, who gave the organization its name and reached agreement on its formation with British Prime Minister Winston Churchill and Soviet leader Joseph Stalin.

At the San Francisco conference, however, major problems developed over decolonization and the Soviets' insistence on a broad veto power over virtually all Security Council business, even the setting of agenda items and the discussion of disputes. Initially, the Soviets had also wanted 16 votes in the General Assembly, adding one for each of their 15 republics. They eventually settled for three after it was pointed out that by that logic, the United States ought to have 49 votes.

According to Stassen, who served as Minnesota's youngest governor before joining the Navy during the war and who went on to seek the Republican nomination for president four times, his wife Esther played a key role in resolving the veto impasse. Some of the Soviet delegates' wives had told her that Stalin had set the veto position and none of their husbands dared ask the dictator to modify it, Stassen said. But if the Americans could present their arguments directly to Stalin, he might change his mind, the wives advised.

Stassen said he reported this to President Truman, who had taken office upon Roosevelt's death. Truman dispatched Harry Hopkins, Roosevelt's closest adviser, to Moscow, and Stalin was persuaded to limit the veto to the Security Council's final resolutions.

The lone American woman delegate, Virginia Gildersleeve, the dean of Barnard College, played a key role in drafting the U.N. Charter's preamble.

Stassen recalls her exasperation after the drafting committee's first meeting, where language along the lines of ''the high contracting parties have assembled and entered this treaty'' was proposed. ''That's no way to start a charter for the future of the world,'' fumed Gildersleeve. ''It's got to say, 'We the peoples of the United Nations . . .''' Her proposal was ridiculed by diplomats, who insisted that the charter could not be formed by ''peoples,'' but only by the representatives of governments. Eventually, however, she prevailed and eloquence overcame diplomatese.

For Stassen, the defining moment came five days before the signing when Secretary of State Stettinius, the conference chairman, announced that there was nothing else on his agenda. He then asked all heads of delegations who were ready to sign the charter to stand.

''Chairs began to scrape . . . and suddenly the delegations realized that every one of the 50 chairmen was standing, and they broke out into applause for the first time in those sessions,'' Stassen recalled.

Still, the seeds of the Cold War evidently had been planted. Pell, now 76 and the ranking Democrat on the Senate Foreign Relations Committee, recalls walking to a restaurant with a Soviet admiral when a big black car suddenly pulled over and picked up the Russian.

''He wasn't supposed to go to lunch with capitalists,'' Pell said.

The senator also vividly remembers traveling to San Francisco by train from the East Coast with other young officers from Europe. As the train rolled past the seemingly endless grain fields and the unscathed cities and towns of America's heartland, the Europeans were stunned by the contrast with their own war-ravaged countries. ''Their eyes got wider and wider,'' Pell said, and they arrived in San Francisco with a sense of awe for the power and resources of the United States.

Bernardino's most vivid memory was of the day the war in Europe ended while the conference was underway in may 1945. A Honduran delegate, who had just heard the news of the street, burst into her committee meeting and shouted, ''The war is over!'' and the room erupted in celebration, she said.

For Betty Teslenko, then a 22-year-old stenographer at the conference, the imposing cast of characters was most impressive. One who deserved special credit as a mediator of many disputes was the Australian foreign minister, Herbert Evatt, whose broad accent prompted some good-natured ribbing, she recalled. One joke that made the rounds: What's the difference between a buffalo and a bison? Answer: a bison is what Evatt uses to wash his hands in the morning.

According to Teslenko, Hiss was so efficient in organizing the conference that he became the choice of many delegates to be the United Nations' first secretary general. However, an unwritten rule that the organization's head should not come from one of the five permanent, veto-wielding members of the Security Council—the United States, Soviet Union, Britain, France and China—made that impossible.

For Piedad Suro, then a young reporter from Ecuador, the conference was memorable chiefly for the difficulties of finding out what was going on in the closed sessions—and for a whirlwind courtship by the man who became her husband, Guillermo Suro, the State Department's chief of language services. Their son, Roberto Suro, is now a Washington Post editor.

''That was where we dated and he proposed,'' Suro said of the San Francisco conference. ''We became engaged the last week and were married in New York two months later.'' She denies, however, that her fiance ever gave her a scoop.

As Truman arrived in San Francisco to witness the signing 50 years ago, an estimated 250,000 cheering people turned out to greet his mile-long motorcade, giving him what The Washington Post at the time described as ''the most tumultuous demonstration since he entered the White House.''

''You have created a great instrument for peace,'' Truman said at the signing ceremony to a standing ovation, ''Oh, what a great day this can be in history.''

Today a common view among both U.N. supporters and critics seems to be that if the world body were to disappear, it would have to be quickly reinvented.

''While it hasn't been altogether a 100 percent success,'' said Sen. Pell, ''we're certainly far better off for having the United Nations exist than we would be without it.''●

CHANGING TIME FOR VOTE

Mr. DOLE. Mr. President, I ask unanimous consent that the previously scheduled vote on Monday, July 10, be changed to begin at 5:15 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR COMMITTEES TO REPORT

Mr. DOLE. Mr. President, I ask unanimous consent, notwithstanding adjournment of the Senate, that on Wednesday, July 5, committees have from 10 a.m. to 2 p.m. to file any legislative or executive reported business

The PRESIDING OFFICER. Without objection, it is so ordered.

REMOVAL OF INJUNCTION OF SECRECY—EXCHANGE OF NOTES RELATING TO THE TAX CONVENTION WITH UKRAINE (TREATY DOCUMENT NO. 104–11)

Mr. DOLE. As in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Exchange of Notes Relating to the Tax Convention of the Ukraine (Treaty Document No. 104–11), transmitted to

the Senate by the President on June 28, 1995; and that the treaty be considered as having been read the first time; referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and ordered that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith an exchange of notes dated at Washington May 26 and June 6, 1995, for Senate advice and consent to ratification in connection with the Senate's consideration of the Convention Between the Government of the United States of America and the Government of Ukraine for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital, together with a related Protocol, signed at Washington on March 4, 1994 (''the Taxation Convention''). Also transmitted for the information of the Senate is the report of the Department of State with respect to the exchange of notes.

This exchange of notes addresses the interaction between the Taxation Convention and other treaties that have tax provisions, including in particular the General Agreement on Trade in Services (GATS), annexed to the Agreement Establishing the World Trade Organization, done at Marrakesh April 15, 1994.

I recommend that the Senate give favorable consideration to this exchange of notes and give its advice and consent to ratification in connection with the Taxation Convention.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 28, 1995.*

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations, executive calendar nomination numbers 178 through 183, and 206, 207, 208, and 210 through 231.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table en bloc, and any statements relating to the nominations appear at the appropriate place in the RECORD, the President be immediately notified of the Senate's action, and that the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

FEDERAL INSURANCE TRUST FUNDS

Stephen G. Kellison, of Texas, to be a Member of the Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for a term of four years.

Marilyn Moon, on Maryland, to be a Member of the Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for a term of four years.

FEDERAL HOSPITAL INSURANCE TRUST FUND

Stephen G. Kellison, of Texas, to be a Member of the Board of Trustees of the Federal Hospital Insurance Trust Fund for a term of four years.

FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND

Stephen G. Kellison, of Texas, to be a Member of the Board of Trustees of the Federal Supplementary Medical Insurance Trust Fund for a term of four years.

FEDERAL HOSPITAL INSURANCE TRUST FUND

Marilyn Moon, of Maryland, to be a Member of the Board of Trustees of the Federal Hospital Insurance Trust Fund for a term of four years.

FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND

Marilyn Moon, of Maryland, to be a Member of the Board of Trustees of the Federal Supplementary Medical Insurance Trust Fund for a term of four years.

DEPARTMENT OF LABOR

Edmundo A. Gonzales, of Colorado, to be Chief Financial Officer, Department of Labor. (New Position)

NATIONAL COUNCIL ON DISABILITY

John D. Kemp, of the District of Columbia, to be a Member of the National Council on Disability for a term expiring September 17, 1997.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Clifford Gregory Stewart, of New Jersey, to be General Counsel of the Equal Employment Opportunity Commission for a term of four years.

THE JUDICIARY

Carlos F. Lucero, of Colorado, to be United States Circuit Judge for the Tenth Circuit.

Peter C. Economus, of Ohio, to be United States District Judge for the Northern District of Ohio.

Wiley Y. Daniel, of Colorado, to be United State District Judge for the District of Colorado.

Nancy Friedman Atlas, of Texas, to be United States District Judge for the Southern District of Texas.

Donald C. Nugent, of Ohio, to be United States District Judge for the Northern District of Ohio.

DEPARTMENT OF JUSTICE

Andrew Fois, of New York, to be an Assistant Attorney General.

STATE JUSTICE INSTITUTE

Janie L. Shores, of Alabama, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1997.

Terrence B. Adamson, of the District of Columbia, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1997. (Reappointment)

EXECUTIVE OFFICE OF THE PRESIDENT

Martin Neil Baily, of Maryland, to be a Member of the Council of Economic Advisers.

NATIONAL INSTITUTE OF BUILDING SCIENCES

Steve M. Hays, of Tennessee, to be a Member of the Board of Directors of the National Institute of Building Sciences for a term expiring September 7, 1997.

SECURITIES INVESTOR PROTECTION CORPORATION

Charles L. Marinaccio, of the District of Columbia, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1996.

Deborah Dudley Branson, of Texas, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1996.

Marianne C. Spraggins, of New York, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1997.

Albert James Dwoskin, of Virginia, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1998. (Reappointment)

NATIONAL CONSUMER COOPERATIVE BANK

Tony Scallon, of Minnesota, to be a Member of the Board of Directors of the National Consumer Cooperative Bank for a term of three years.

Sheila Anne Smith, of Illinois, to be a Member of the Board of Directors of the National Consumer Cooperative Bank for a term of three years.

EXECUTIVE OFFICE OF THE PRESIDENT

Ira S. Shapiro, of Maryland, for the rank of Ambassador during his tenure of service as Senior Counsel and Negotiator in the Office of the United States Trade Representative.

AIR FORCE

The following-named officer for appointment to the grade of general while assigned to a position of importance and responsibility under Title 10, United States Code, Section 601:

To be general

Lt. Gen. Richard E. Hawley, 000–00–0000, United States Air Force.

THE JUDICIARY

Diane P. Wood, of Illinois, to be United States Circuit Judge for the Seventh Circuit.

George H. King, of California, to be United States District Judge for the Central District of California vice a new position created by Public Law 101–650, approved December 1, 1990.

Robert H. Whaley, of Washington, to be United States District Judge for the Eastern District of Washington.

Tena Campbell, of Utah, to be United States District Judge for the District of Utah.

STATEMENT ON NOMINATION OF TENA CAMPBELL

Mr. HATCH. Mr. President, I rise today to urge my colleagues to support the nomination of Tena Campbell for the position of U.S. district judge for the district of Utah.

As chairman of the Judiciary Committee, I am keenly aware of the importance of the Federal judiciary and its impact on our citizens; not only litigants whose cases are decided by Federal courts, but all Americans who, in so many ways, are affected in their daily lives by rulings handed down by Federal judges. It is for this reason that I have always believed that nominees for Federal judicial positions must be individuals of the highest caliber, both professionally and personally. I am pleased to say that Tena Campbell is such a nominee.

Tena Campbell is an individual whose accomplishments and qualifications for the position of Federal district court judge speak for themselves. After working in private practice and in the

Salt Lake County attorney's office, Mrs. Campbell became an assistant U.S. attorney in Utah, where she has served with distinction since 1982. During that time, she has tried more than 60 felony cases—more cases than most lawyers try in their entire career.

She has risen to become the Financial Institution Fraud Coordinator for the U.S. attorney's office, in charge of all cases involving federally insured institutions, in addition to prosecuting other complex white-collar crime cases. It is a measure of her dedication that despite the complexity and time-consuming nature of white-collar crime cases, she has also chosen to continue to prosecute violent crime cases.

Throughout her service as an assistant U.S. attorney, Tena Campbell has earned the respect of the Federal bench and a reputation as a hardworking, tough, yet compassionate, prosecutor. She has received the highest rating, Well Qualified, from the American Bar Association. I am convinced that as a Federal judge, where she would be the first woman in Utah history to serve in that position, Tena Campbell will be fair, honest, and knowledgeable, and I am proud to support her nomination.

For these reasons, I urge my colleagues to support her nomination.

STATEMENT OF THE NOMINATION OF CLIFFORD GREGORY STEWART

Mr. LAUTENBERG. Mr. President, I rise in strong support of the nomination of Greg Stewart to be general counsel of the Equal Employment Opportunity Commission [EEOC].

Greg Stewart is a native New Jerseyan and has most recently served as the director of the division of civil rights for the State of New Jersey. I believe that Greg Stewart has the qualifications and the experience to make an excellent general counsel at EEOC.

Mr. President, Greg Stewart has been involved in civil rights issues for over 13 years. He has served as the director of the division of civil rights in New Jersey under both a Democratic and Republican governor. He has also worked for the department of the public advocate in New Jersey, again under Democratic and Republican Governors. During whatever free time he has had since he graduated from Rutgers Law School in 1981, he has taught constitutional and civil rights law at Rutgers School of Law and John Jay College.

Greg Stewart has an outstanding scholar. He has a three degrees from Rutgers; a B.A. in political science, an M.A. in political science, and a J.D. from the Rutgers Law School in Newark. He has received several academic honors including an Eagleton Institute of Politics fellowship. In addition to his academic accomplishments, Greg has also been involved in community service. In fact, he received the Community Service Award for the New Jersey Conference of the NAACP branches and the Equal Justice Medal for the Legal Services of New Jersey.

Mr. President, our country is on the brink of a national debate on affirmation action and civil rights laws. I think Greg Stewart can make an excellent contribution to this debate as general counsel to the EEOC. He has a vast amount of experience in civil rights law and he has served under Republicans and Democrats with a sincere respect for the law, objectivity, and a unique sense of balance. I am proud to support his nomination and urge the Senate to confirm his nomination to EEOC general counsel.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

THE FEDERAL COURT CASE REMOVAL ACT

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 32 S. 533.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (S. 533) to clarify te rules governing removal of cases to Federal court, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. DOLE. I ask unanimous consent that the bill be considered, deemed read a third time and passed, the motion to reconsider be laid upon the table, and that any statements appear in the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 533) was deemed read for the third time, and passed as follows:

S. 533

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REMOVAL.

The first sentence of section 1447(c) of title 28, United States Code, is amended by striking ''any defect in removal procedure'' and inserting ''any defect other than lack of subject matter jurisdiction''.

REDUNDANT VENUE REPEAL ACT

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to immediate consideration of calendar No. 112, S. 677.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A bill (S. 677) to repeal a redundant venue provision, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider of the bill.

Mr. DOLE. Mr. President, I ask unanimous consent that the bill be considered and deemed read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 677) was deemed read for the third time, and passed as follows:

S. 677

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL.

(a) REPEAL.—Subsection (a) of section 1392 of title 28, United States Code, is repealed.

(b) TECHNICAL AMENDMENT.—Subsection (b) of section 1392 of title 28, United States Code, is amended by striking ''(b) Any'' and inserting ''Any''.

REGARDING THE ARREST OF HARRY WU BY THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA

Mr. DOLE. Mr. President, I ask unanimous consent that Senate proceed to immediate consideration of Senate Resolution 148, submitted earlier today by Senator HELMS.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 148) expressing the sense of the Senate regarding the arrest of Harry Wu by the Government of the People's Republic of China.

The PRESIDING OFFICER. Is there objection to proceeding to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

RED CHINESE UP TO NO GOOD—AGAIN

Mr. HELMS. The resolution condemns the arrest of Mr. Peter H. W., a personal friend of mine who has been arrested by the Red Chinese. I understand the House of Representatives Committee on International Relations reported a similar resolution yesterday that is expected to be considered by the House this morning.

Peter Hongda Wu, known to all of us as Harry Wu, entered China last week on a valid United States passport and a valid visa issued by the Chinese themselves.

Harry submitted his papers at the border and was immediately placed under house arrest by Chinese authorizes and held for 3 days, after which a caravan of Communist-style cars arrived in the small border town near Kazakhstan and whisked Harry away.

Harry Wu has not been seen or heard from since. Mr. President, the cruelty the Chinese Communists can inflict, especially on humans they claim have committed crimes against the state. Unfortunately, because Harry has devoted his life to exposing human rights abuses in China, the Chinese have

taken purely punitive action against him.

Harry Wu has worked and cooperated with the Senate for many years. It was Harry who first informed me that the Chinese were forcing their own prisoners, many of them political prisoners, to produce products for sale to other countries. Harry was extraordinarily familiar with these practices since he spent 19 years in a Chinese prison.

More recently, Mr. President, at my invitation, Harry testified before the Foreign Relations Committee regarding the Chinese Government's practice of selling organs removed from the bodies of just-executed prisoners, including political prisoners. The Chinese make these organs available on the international market—for cold cash—for example, $10,000 for a liver and varying amounts for corneas and other human organs.

Harry's video footage filmed in China, proved that the Chinese even have gone so far as to harvest both kidneys from living prisoners. Understandably, the hearing received a great deal of international attention, and the Chinese are obviously punishing Harry Wu for informing the U.S. Congress about this and other matters.

Mr. President, the Chinese have already usurped 19 years of Harry Wu's life. They must not persecute him further. He is a faithful and honest American citizen devoted to ensuring the wellbeing of Chinese citizens. I urge Senators and the President to do everything within their power to press for Harry Wu's immediate release and safe return. As his friend, I appeal to all Senators for their support.

Mr. President, my resolution expresses condemnation of the arrest and detention of Harry Wu. It further calls upon China to comply immediately with its commitments under the United States-People's Republic of China Consular Convention by providing the United States Government with a full accounting for Harry's arrest and detention. I urge the Senate to adopt the resolution.

Mr. DOLE. Mr. President, I ask unanimous consent that the resolution be considered and agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 148) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows: 6se

S. RES. 148

Whereas Peter H. Wu, known as Harry Wu, attempted to enter the People's Republic of China on June 19, 1995, near the China-Kazakhstan border;

Whereas Harry Wu, a 58-year-old American citizen, was traveling on a valid United States passport and a valid visa issued by the Chinese authorities;

Whereas the Chinese authorities confined Harry Wu to house arrest for 3 days, after which time he has not been seen or heard from;

Whereas the Chinese Foreign Ministry notified the United States Embassy in Beijing of Mr. Wu's detention on Friday, June 23;

Whereas the United States Embassy in Beijing approached the Chinese Foreign Ministry on Monday, June 26, to issue an official demarche for the detention of an American citizen;

Whereas the terms of the United States-People's Republic of China Consular convention on February 19, 1982, require that United States Government officials shall be accorded access to an American citizen as soon as possible but not more than 48 hours after the United States has been notified of such detention;

Whereas on Wednesday, June 28, the highest ranking representative of the People's Republic of China in the United States refused to offer the United States Government any information on Harry Wu's whereabouts or the charges brought against him;

Whereas the Government of the People's Republic of China is in violation of the terms of its Consular Convention;

Whereas Harry Wu, who was born in China, has already spent 19 years in Chinese prisons;

Whereas Harry Wu has dedicated his life to the betterment of the human rights situation in the People's Republic of China;

Whereas Harry Wu first detailed to the United States Congress the practice of using prison labor to produce products for export from China to other countries;

Whereas Harry Wu testified before the Committee on Foreign Relations of the Senate on May 4, 1995, informing the Committee, the Senate, and the American people about the Chinese government practice of murdering Chinese prisoners, including political prisoners, for the purpose of harvesting their organs for sale on the international market;

Whereas on June 2, 1995, the President of the United States announced his determination that further extension of the waiver authority granted by section 402(c) of the Trade Act of 1974 (Public Law 93–618; 88 Stat. 1978), also known as ''Jackson-Vanik'', will substantially promote freedom of emigration from the People's Republic of China;

Whereas this waiver authority will allow the People's Republic of China to receive the lowest tariff rates possible, also known as Most-Favored-Nation trading status, for a period of 12 months beginning on July 3, 1995; and

Whereas the Chinese government and people benefit substantially from the continuation of such trading benefits: Now, therefore, be it

Resolved, That (a) the United States Senate expresses its condemnation of the arrest of Peter H. Wu and its deep concern for his well-being.

(b) It is the sense of the Senate that—

(1) the People's Republic of China must immediately comply with its commitments under the United States-People's Republic of China Consular Convention of February 19, 1982, by allowing consular access to Peter H. Wu;

(2) the People's Republic of China should provide immediately a full accounting of Peter Wu's whereabouts and the charges being brought against him; and

(3) the President of the United States should use every diplomatic means available to ensure Peter Wu's safe and expeditious return to the United States.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President of the United States with the request that the President further transmit such copy to the Embassy of the People's Republic of China in the United States.

FISHERIES ACT

Mr. DOLE. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of calendar 119, S. 267.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 267) to establish a system of licensing, reporting, and regulation for vessels of the United States fishing on the high seas, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 267

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Fisheries Act of 1995''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

TITLE I—HIGH SEAS FISHERIES LICENSING

SEC. 101. SHORT TITLE.

This title may be cited as the ''High Seas Fisheries Licensing Act of 1995''.

SEC. 102. PURPOSE.

It is the purpose of this Act—

(1) to implement the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, adopted by the Conference of the Food and Agriculture Organization of the United Nations on November 24, 1993; and

(2) to establish a system of licensing, reporting, and regulation for vessels of the United States fishing on the high seas.

SEC. 103. DEFINITIONS.

As used in this Act—

(1) The term ''Agreement'' means the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, adopted by the Conference of the Food and Agriculture Organization of the United Nations on November 24, 1993.

(2) The term ''FAO'' means the Food and Agriculture Organization of the United Nations.

(3) The term ''high seas'' means the waters beyond the territorial sea or exclusive economic zone (or the equivalent) of any nation, to the extent that such territorial sea or exclusive economic zone (or the equivalent) is recognized by the United States.

(4) The term ''high seas fishing vessel'' means any vessel of the United States used or intended for use—

(A) on the high seas;

(B) for the purpose of the commercial exploitation of living marine resources; and

(C) as a harvesting vessel, as a mother ship, or as any other support vessel directly engaged in a fishing operation.

(5) The term ''international conservation and management measures'' means measures to conserve or manage one or more species of living marine resources that are adopted and applied in accordance with the relevant rules of international law, as reflected in the 1982 United Nations Convention on the Law of the Sea, and that are recognized by the United States. Such measures may be adopted by global, regional, or sub-regional fisheries organizations, subject to the rights and obligations of their members, or by treaties or other international agreements.

(6) The term ''length'' means —

(A) for any high seas fishing vessel built after July 18, 1982, 96 percent of the total length on a waterline at 85 percent of the least molded depth measured from the top of the keel, or the length from the foreside of the stem to the axis of the rudder stock on that waterline, if that is [greater. In] *greater, except that in* ships designed with a rake of keel the waterline on which this length is measured shall be parallel to the designed waterline; and

(B) for any high seas fishing vessel built before July 18, 1982, registered length as entered on the vessel's documentation.

(7) The term ''person'' means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

(8) The term ''Secretary'' means the Secretary of Commerce.

(9) The term ''vessel of the United States'' means—

(A) a vessel documented under chapter 121 of title 46, United States Code, or numbered in accordance with chapter 123 of title 46, United States Code;

(B) a vessel owned in whole or part by—

(i) the United States or a territory, commonwealth, or possession of the United States;

(ii) a State or political subdivision thereof;

(iii) a citizen or national of the United States; or

(iv) a corporation created under the laws of the United States or any State, the District of Columbia, or any territory, commonwealth, or possession of the United States; unless the vessel has been granted the nationality of a foreign nation in accordance with article 92 of the 1982 United Nations Convention on the Law of the Sea and a claim of nationality or registry for the vessel is made by the master or individual in charge at the time of the enforcement action by an officer or employee of the United States authorized to enforce applicable provisions of the United States law; and

(C) a vessel that was once documented under the laws of the United States and, in violation of the laws of the United States, was either sold to a person not a citizen of the United States or placed under foreign registry or a foreign flag, whether or not the vessel has been granted the nationality of a foreign nation.

(10) The terms ''vessel subject to the jurisdiction of the United States'' and ''vessel without nationality'' have the same meaning as in section [1903(c) of title 46, United States Code Appendix.] *3(c) of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903(c)).*

SEC. 104. LICENSING.

(a) IN GENERAL.—No high seas fishing vessel shall engage in harvesting operations on the high seas unless the vessel has on board a valid license issued under this section.

(b) ELIGIBILITY.—

(1) Any vessel of the United States is eligible to receive a license under this section, unless the vessel was previously authorized to be used for fishing on the high seas by a foreign nation, and

(A) the foreign nation suspended such authorization because the vessel undermined the effectiveness of international conservation and management measures, and the suspension has not expired; or

(B) the foreign nation, within the last three years preceding application for a license under this section, withdrew such authorization because the vessel undermined the effectiveness of international conservation and management measures.

(2) The restriction in paragraph (1) does not apply if ownership of the vessel has changed since the vessel undermined the effectiveness of international conservation and management measures, and the new owner has provided sufficient evidence to the Secretary demonstrating that the previous owner or operator has no further legal, beneficial or financial interest in, or control of, the vessel.

(3) The restriction in paragraph (1) does not apply if the Secretary makes a determination that issuing a license would not subvert the purposes of the Agreement.

(4) The Secretary may not issue a license to a vessel unless the Secretary is satisfied that the United States will be able to exercise effectively its responsibilities under the Agreement with respect to that vessel.

(c) APPLICATION.—

(1) The owner or operator of a high seas fishing vessel may apply for a license under this section by completing an application form prescribed by the Secretary.

(2) The application form shall contain—

(A) the vessel's name, previous names (if known), official numbers, and port of record;

(B) the vessel's previous flags (if any);

(C) the vessel's International Radio Call Sign (if any);

(D) the names and addresses of the vessel's owners and operators;

(E) where and when the vessel was built;

(F) the type of vessel;

(G) the vessel's length; and

(H) any other information the Secretary requires for the purposes of implementing the Agreement.

(d) CONDITIONS.—The Secretary shall establish such conditions and restrictions on each license issued under this section as are necessary and appropriate to carry out the obligations of the United States under the Agreement, including but not limited to the following:

(1) The vessel shall be marked in accordance with the FAO Standard Specifications for the Marking and Identification of Fishing Vessels, or with regulations issued under section 305 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1855); and

(2) The license holder shall report such information as the Secretary by regulation requires, including area of fishing operations and catch statistics. The Secretary shall promulgate regulations concerning conditions under which information submitted under this paragraph may be released.

(e) FEES.—

(1) The Secretary shall by regulation establish the level of fees to be charged for licenses issued under this section. The amount of any fee charged for a license issued under this section shall not exceed the administrative costs incurred in issuing such licenses. The licensing fee may be in addition to any fee required under any regional licensing regime applicable to high seas fishing vessels.

(2) The fees authorized by paragraph (1) shall be collected and credited to the Operations, Research and Facilities account of the National Oceanic and Atmospheric Administration. Fees collected under this subsection shall be available for the necessary expenses of the National Oceanic and Atmospheric Administration in implementing this Act, and shall remain available until expended.

(f) DURATION.—A license issued under this section is valid for 5 years. A license issued under this section is void in the event the vessel is no longer eligible for United States documentation, such documentation is revoked or denied, or the vessel is deleted from such documentation.

SEC. 105. RESPONSIBILITIES OF THE SECRETARY.

(a) RECORD.—The Secretary shall maintain an automated file or record of high seas fishing vessels issued licenses under section 104, including all information submitted under section 104(c)(2).

(b) INFORMATION TO FAO.—The Secretary, in cooperation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall—

(1) make available to FAO information contained in the record maintained under subsection (a);

(2) promptly notify FAO of changes in such information;

(3) promptly notify FAO of additions to or deletions from the record, and the reason for any deletion;

(4) convey to FAO information relating to any license granted under section 104(b)(3), including the vessel's identity, owner or operator, and factors relevant to the Secretary's determination to issue the license;

(5) report promptly to FAO all relevant information regarding any activities of high seas fishing vessels that undermine the effectiveness of international conservation and management measures, including the identity of the vessels and any sanctions imposed; and

(6) provide the FAO a summary of evidence regarding any activities of foreign vessels that undermine the effectiveness of international conservation and management measures.

(c) INFORMATION TO FLAG NATIONS.—If the Secretary, in cooperation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, has reasonable grounds to believe that a foreign vessel has engaged in activities undermining the effectiveness of international conservation and management measures, the Secretary shall—

(1) provide to the flag nation information, including appropriate evidentiary material, relating to those activities; and

(2) when such foreign vessel is voluntarily in a United States port, promptly notify the flag nation and, if requested by the flag nation, make arrangements to undertake such lawful investigatory measures as may be considered necessary to establish whether the vessel has been used contrary to the provisions of the Agreement.

(d) REGULATIONS.—The Secretary, after consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, may promulgate such regulations, in accordance with section 553 of title 5, United States Code, as may be necessary to carry out the purposes of the Agreement and this title. The Secretary shall coordinate such regulations with any other entities regulating high seas fishing vessels, in order to minimize duplication of license application and reporting requirements. To the extent practicable, such regulations shall also be consistent with regulations implementing fishery management plans under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(e) NOTICE OF INTERNATIONAL CONSERVATION AND MANAGEMENT MEASURES.—The Secretary, in consultation with the Secretary of State, shall publish in the Federal Register, from time to time, a notice listing international conservation and management measures recognized by the United States.

SEC. 106. UNLAWFUL ACTIVITIES.

It is unlawful for any person subject to the jurisdiction of the United States—

(1) to use a high seas fishing vessel on the high seas in contravention of international conservation and management measures described in section 105(e);

(2) to use a high seas fishing vessel on the high seas, unless the vessel has on board a valid license issued under section 104;

(3) to use a high seas fishing vessel in violation of the conditions or restrictions of a license issued under section 104;

(4) to falsify any information required to be reported, communicated, or recorded pursuant to this title or any regulation issued under this title, or to fail to submit in a timely fashion any required information, or to fail to report to the Secretary immediately any change in circumstances that has the effect of rendering any such information false, incomplete, or misleading;

(5) to refuse to permit an authorized officer to board a high seas fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this title or any regulation issued under this title;

(6) to forcibly assault, resist, oppose, impede, intimidate, or interfere with an authorized officer in the conduct of any search or inspection described in paragraph (5);

(7) to resist a lawful arrest or detention for any act prohibited by this section;

(8) to interfere with, delay, or prevent, by any means, the apprehension, arrest, or detection of another person, knowing that such person has committed any act prohibited by this section;

(9) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any living marine resource taken or retained in violation of this title or any regulation or license issued under this title; or

(10) to violate any provision of this title or any regulation or license issued under this title.

SEC. 107. ENFORCEMENT PROVISIONS.

(a) DUTIES OF SECRETARIES.—This title shall be enforced by the Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may by agreement utilize, on a reimbursable basis or otherwise, the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency, or of any State agency, in the performance of such duties. Such Secretaries shall, and the head of any Federal or State agency that has entered into an agreement with either such Secretary under this section may (if the agreement so provides), authorize officers to enforce the provisions of this title or any regulation or license issued under this title.

(b) DISTRICT COURT JURISDICTION.—The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this title. In the case of Guam, and any Commonwealth, territory, or possession of the United States in the Pacific Ocean, the appropriate court is the United States District Court for the District of Guam, except that in the case of American Samoa, the appropriate court is the United States District Court for the District of Hawaii.

(c) POWERS OF ENFORCEMENT OFFICERS.—

(1) Any officer who is authorized under subsection (a) to enforce the provisions of this title may—

(A) with or without a warrant or other process—

(i) arrest any person, if the officer has reasonable cause to believe that such person has committed an act prohibited by paragraph (6), (7), (8), or (9) of section 106;

(ii) board, and search or inspect, any high seas fishing vessel;

(iii) seize any high seas fishing vessel (together with its fishing gear, furniture, appurtenances, stores, and cargo) used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, the violation of any provision of this title or any regulation or license issued under this title;

(iv) seize any living marine resource (wherever found) taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 106;

(v) seize any other evidence related to any violation of any provision of this title or any regulation or license issued under this title;

(B) execute any warrant or other process issued by any court of competent jurisdiction; and

(C) exercise any other lawful authority.

(2) Subject to the direction of the Secretary, a person charged with law enforcement responsibilities by the Secretary who is performing a duty related to enforcement of a law regarding fisheries or other marine resources may make an arrest without a warrant for an offense against the United States committed in his presence, or for a felony cognizable under the laws of the United States, if he has reasonable grounds to believe that the person to be arrested has committed or is committing a felony.

(d) ISSUANCE OF CITATIONS.—If any authorized officer finds that a high seas fishing vessel is operating or has been operated in violation of any provision of this title, such officer may issue a citation to the owner or operator of such vessel in lieu of proceeding under subsection (c). If a permit has been issued pursuant to this title for such vessel, such officer shall note the issuance of any citation under this subsection, including the date thereof and the reason therefor, on the permit. The Secretary shall maintain a record of all citations issued pursuant to this subsection.

(e) LIABILITY FOR COSTS.—Any person assessed a civil penalty for, or convicted of, any violation of this Act shall be liable for the cost incurred in storage, care, and maintenance of any living marine resource or other property seized in connection with the violation.

SEC. 108. CIVIL PENALTIES AND LICENSE SANCTIONS.

(a) CIVIL PENALTIES.—

(1) Any person who is found by the Secretary, after notice and opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 106 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $100,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violation, the degree of culpability, any history of prior offenses, and such other matters as justice may require.

(2) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty that is subject to imposition or that has been imposed under this section.

(b) LICENSE SANCTIONS.—

(1) In any case in which—

(A) a vessel of the United States has been used in the commission of an act prohibited under section 106;

(B) the owner or operator of a vessel or any other person who has been issued or has applied for a license under section 104 has acted in violation of section 106; or

(C) any amount in settlement of a civil forfeiture imposed on a high seas fishing vessel or other property, or any civil penalty or criminal fine imposed on a high seas fishing vessel or on an owner or operator of such a vessel or on any other person who has been issued or has applied for a license under any

fishery resource statute enforced by the Secretary, has not been paid and is overdue, the Secretary may—

(i) revoke any license issued to or applied for by such vessel or person under this title, with or without prejudice to the issuance of subsequent licenses;

(ii) suspend such license for a period of time considered by the Secretary to be appropriate;

(iii) deny such license; or

(iv) impose additional conditions and restrictions on such license.

(2) In imposing a sanction under this subsection, the Secretary shall take into account—

(A) the nature, circumstances, extent, and gravity of the prohibited acts for which the sanction is imposed; and

(B) with respect to the violator, the degree of culpability, any history of prior offenses, and such other matters as justice may require.

(3) Transfer of ownership of a high seas fishing vessel, by sale or otherwise, shall not extinguish any license sanction that is in effect or is pending at the time of transfer of ownership. Before executing the transfer of ownership of a vessel, by sale or otherwise, the owner shall disclose in writing to the prospective transferee the existence of any license sanction that will be in effect or pending with respect to the vessel at the time of the transfer. The Secretary may waive or compromise a sanction in the case of a transfer pursuant to court order.

(4) In the case of any license that is suspended under this subsection for nonpayment of a civil penalty or criminal fine, the Secretary shall reinstate the license upon payment of the penalty or fine and interest thereon at the prevailing rate.

(5) No sanctions shall be imposed under this subsection unless there has been prior opportunity for a hearing on the facts underlying the violation for which the sanction is imposed, either in conjunction with a civil penalty proceeding under this section or otherwise.

(c) HEARING.—For the purposes of conducting any hearing under this section, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpoena served upon any person pursuant to this subsection, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(d) JUDICIAL REVIEW.—Any person against whom a civil penalty is assessed under subsection (a) or against whose vessel a license sanction is imposed under subsection (b) (other than a license suspension for nonpayment of penalty or fine) may obtain review thereof in the United States district court for the appropriate district by filing a complaint against the Secretary in such court within 30 days from the date of such penalty or sanction. The Secretary shall promptly file in such court a certified copy of the record upon which such penalty or sanction was imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Secretary shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

(e) COLLECTION.—

(1) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the matter shall be referred to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(2) A high seas fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used in the commission of an act prohibited by section 106 shall be liable in rem for any civil penalty assessed for such violation under subsection (a) and may be proceeded against in any district court of the United States having jurisdiction thereof. Such penalty shall constitute a maritime lien on such vessel that may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

SEC. 109. CRIMINAL OFFENSES.

(a) OFFENSES.—A person is guilty of an offense if the person commits any act prohibited by paragraph (6), (7), (8), or (9) of section 106.

(b) PUNISHMENT.—Any offense described in subsection (a) is a class A misdemeanor punishable by a fine under title 18, United States Code, or imprisonment for not more than one year, or both; except that if in the commission of any offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any authorized officer, or places any such officer in fear of imminent bodily injury, the offense is a felony punishable by a fine under title 18, United States Code, or imprisonment for not more than 10 years, or both.

SEC. 110. FORFEITURES.

(a) IN GENERAL.—Any high seas fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used, and any living marine resources (or the fair market value thereof) taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 106 (other than an act for which the issuance of a citation under section 107 is a sufficient sanction) shall be subject to forfeiture to the United States. All or part of such vessel may, and all such living marine resources (or the fair market value thereof) shall, be forfeited to the United States pursuant to a civil proceeding under this section.

(b) JURISDICTION OF DISTRICT COURTS.—Any district court of the United States shall have jurisdiction, upon application of the Attorney General on behalf of the United States, to order any forfeiture authorized under subsection (a) and any action provided for under subsection (d).

(c) JUDGMENT.—If a judgment is entered for the United States in a civil forfeiture proceeding under this section, the Attorney General may seize any property or other interest declared forfeited to the United States, which has not previously been seized pursuant to this title or for which security has not previously been obtained. The provisions of the customs laws relating to—

(1) the seizure, forfeiture, and condemnation of property for violation of the customs law;

(2) the disposition of such property or the proceeds from the sale thereof; and

(3) the remission or mitigation of any such forfeiture;

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this title, unless such provisions are inconsistent with the purposes, policy, and provisions of this title.

(d) PROCEDURE.—

(1) Any officer authorized to serve any process in rem that is issued by a court under section 107(b) shall—

(A) stay the execution of such process; or

(B) discharge any living marine resources seized pursuant to such process;

upon receipt of a satisfactory bond or other security from any person claiming such property. Such bond or other security shall be conditioned upon such person delivering such property to the appropriate court upon order thereof, without any impairment of its value, or paying the monetary value of such property pursuant to an order of such court. Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court.

(2) Any living marine resources seized pursuant to this title may be sold, subject to the approval of the appropriate court, for not less than the fair market value thereof. The proceeds of any such sale shall be deposited with such court pending the disposition of the matter involved.

(e) REBUTTABLE PRESUMPTION.—For purposes of this section, all living marine resources found on board a high seas fishing vessel and which are seized in connection with an act prohibited by section 106 are presumed to have been taken or retained in violation of this title, but the presumption can be rebutted by an appropriate showing of evidence to the contrary.

SEC. 111. EFFECTIVE DATE.

This title shall take effect 120 days after the date of enactment of this Act.

TITLE II—IMPLEMENTATION OF CONVENTION ON FUTURE MULTILATERAL COOPERATION IN THE NORTHWEST ATLANTIC FISHERIES

SEC. 201. SHORT TITLE.

This title may be cited as the ''Northwest Atlantic Fisheries Convention Act of 1995''.

SEC. 202. REPRESENTATION OF UNITED STATES UNDER CONVENTION.

(a) COMMISSIONERS.—

(1) APPOINTMENTS, GENERALLY.—The Secretary shall appoint not more than 3 individuals to serve as the representatives of the United States on the General Council and the Fisheries Commission, who shall each—

(A) be known as a ''United States Commissioner to the Northwest Atlantic Fisheries Organization''; and

(B) serve at the pleasure of the Secretary.

(2) REQUIREMENTS FOR APPOINTMENTS.—

(A) The Secretary shall ensure that of the individuals serving as Commissioners—

(i) at least 1 is appointed from among representatives of the commercial fishing industry;

(ii) 1 (but no more than 1) is an official of the Government; and

(iii) 1, other than the individual appointed under clause (ii), is a voting member of the New England Fishery Management Council.

(B) The Secretary may not appoint as a Commissioner an individual unless the individual is knowledgeable and experienced concerning the fishery resources to which the Convention applies.

(3) TERMS.—

(A) The term of an individual appointed as a Commissioner—

(i) shall be specified by the Secretary at the time of appointment; and

(ii) may not exceed 4 years.

(B) An individual who is not a Government official may not serve more than 2 consecutive terms as a Commissioner.

(b) ALTERNATE COMMISSIONERS.—

(1) APPOINTMENT.—The Secretary may, for any anticipated absence of a duly appointed Commissioner at a meeting of the General Council or the Fisheries Commission, designate an individual to serve as an Alternate Commissioner.

(2) FUNCTIONS.—An Alternate Commissioner may exercise all powers and perform all duties of the Commissioner for whom the Alternate Commissioner is designated, at any meeting of the General Council or the Fisheries Commission for which the Alternate Commissioner is designated.

(c) REPRESENTATIVES.—

(1) APPOINTMENT.—The Secretary shall appoint not more than 3 individuals to serve as the representatives of the United States on the Scientific Council, who shall each be known as a ''United States Representative to the Northwest Atlantic Fisheries Organization Scientific Council''.

(2) ELIGIBILITY FOR APPOINTMENT.—

(A) The Secretary may not appoint an individual as a Representative unless the individual is knowledgeable and experienced concerning the scientific issues dealt with by the Scientific Council.

(B) The Secretary shall appoint as a Representative at least 1 individual who is an official of the Government.

(3) TERM.—An individual appointed as a Representative—

(A) shall serve for a term of not to exceed 4 years, as specified by the Secretary at the time of appointment;

(B) may be reappointed; and

(C) shall serve at the pleasure of the Secretary.

(d) ALTERNATE REPRESENTATIVES.—

(1) APPOINTMENT.—The Secretary may, for any anticipated absence of a duly appointed Representative at a meeting of the Scientific Council, designate an individual to serve as an Alternate Representative.

(2) FUNCTIONS.—An Alternate Representative may exercise all powers and perform all duties of the Representative for whom the Alternate Representative is designated, at any meeting of the Scientific Council for which the Alternate Representative is designated.

(e) EXPERTS AND ADVISERS.—The Commissioners, Alternate Commissioners, Representatives, and Alternate Representatives may be accompanied at meetings of the Organization by experts and advisers.

(f) COORDINATION AND CONSULTATION.—

(1) IN GENERAL.—In carrying out their functions under the Convention, Commissioners, Alternate Commissioners, Representatives, and Alternate Representatives shall—

(A) coordinate with the appropriate Regional Fishery Management Councils established by section 302 of the Magnuson Act (16 U.S.C. 1852); and

(B) consult with the committee established under section 208.

(2) RELATIONSHIP TO OTHER LAW.—The Federal Advisory Committee Act (5 U.S.C. [App. §1 et seq.)] *App.*) shall not apply to coordination and consultations under this subsection.

SEC. 203. REQUESTS FOR SCIENTIFIC ADVICE.

(a) RESTRICTION.—The Representatives may not make a request or specification described in subsection (b)(1) or (2), respectively, unless the Representatives have first—

(1) consulted with the appropriate Regional Fishery Management Councils; and

(2) received the consent of the Commissioners for that action.

(b) REQUESTS AND TERMS OF REFERENCE DESCRIBED.—The requests and specifications referred to in subsection (a) are, respectively—

(1) any request, under Article VII(1) of the Convention, that the Scientific Council consider and report on a question pertaining to the scientific basis for the management and conservation of fishery resources in waters under the jurisdiction of the United States within the Convention Area; and

(2) any specification, under Article VIII(2) of the Convention, of the terms of reference for the consideration of a question referred to the Scientific Council pursuant to Article VII(1) of the Convention.

SEC. 204. AUTHORITIES OF SECRETARY OF STATE WITH RESPECT TO CONVENTION.

The Secretary of State may, on behalf of the Government of the United States—

(1) receive and transmit reports, requests, recommendations, proposals, and other communications of and to the Organization and its subsidiary organs;

(2) object, or withdraw an objection, to the proposal of the Fisheries Commission;

(3) give or withdraw notice of intent not to be bound by a measure of the Fisheries Commission;

(4) object or withdraw an objection to an amendment to the Convention; and

(5) act upon, or refer to any other appropriate authority, any other communication referred to in paragraph (1).

SEC. 205. INTERAGENCY COOPERATION.

(a) AUTHORITIES OF SECRETARY.—In carrying out the provisions of the Convention and this title, the Secretary may arrange for cooperation with other agencies of the United States, the States, the New England and the Mid-Atlantic Fishery Management Councils, and private institutions and organizations.

(b) OTHER AGENCIES.—The head of any Federal agency may—

(1) cooperate in the conduct of scientific and other programs, and furnish facilities and personnel, for the purposes of assisting the Organization in carrying out its duties under the Convention; and

(2) accept reimbursement from the Organization for providing such services, facilities, and personnel.

SEC. 206. RULEMAKING.

The Secretary shall promulgate regulations as may be necessary to carry out the purposes and objectives of the Convention and this title. Any such regulation may be made applicable, as necessary, to all persons and all vessels subject to the jurisdiction of the United States, wherever located.

SEC. 207. PROHIBITED ACTS AND PENALTIES.

(a) PROHIBITION.—It is unlawful for any person or vessel that is subject to the jurisdiction of the United States—

(1) to violate any regulation issued under this title or any measure that is legally binding on the United States under the Convention;

(2) to refuse to permit any authorized enforcement officer to board a fishing vessel that is subject to the person's control for purposes of conducting any search or inspection in connection with the enforcement of this title, any regulation issued under this title, or any measure that is legally binding on the United States under the Convention;

(3) forcibly to assault, resist, oppose, impede, intimidate, or interfere with any authorized enforcement officer in the conduct of any search or inspection described in paragraph (2);

(4) to resist a lawful arrest for any act prohibited by this section;

(5) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of this section; or

(6) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that the other person has committed an act prohibited by this section.

(b) CIVIL PENALTY.—Any person who commits any act that is unlawful under subsection (a) shall be liable to the United States for a civil penalty, or may be subject to a permit sanction, under section 308 of the Magnuson Act (16 U.S.C. 1858).

(c) CRIMINAL PENALTY.—Any person who commits an act that is unlawful under paragraph (2), (3), (4), or (6) of subsection (a) shall be guilty of an offense punishable under section 309(b) of the Magnuson Act (16 U.S.C. 1859(b)).

(d) CIVIL FORFEITURE.—

(1) IN GENERAL.—Any vessel (including its gear, furniture, appurtenances, stores, and cargo) used in the commission of an act that is unlawful under subsection (a), and any fish (or the fair market value thereof) taken or retained, in any manner, in connection with or as a result of the commission of any act that is unlawful under subsection (a), shall be subject to seizure and forfeiture as provided in section 310 of the Magnuson Act (16 U.S.C. 1860).

(2) DISPOSAL OF FISH.—Any fish seized pursuant to this title may be disposed of pursuant to the order of a court of competent jurisdiction or, if perishable, in a manner prescribed by regulations issued by the Secretary.

(e) ENFORCEMENT.—The Secretary and the Secretary of the department in which the Coast Guard is operating shall enforce the provisions of this title and shall have the authority specified in sections 311(a), (b)(1), and (c) of the Magnuson Act (16 U.S.C. 1861(a), (b)(1), and (c)) for that purpose.

(f) JURISDICTION OF COURTS.—The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under this section and may, at any time—

(1) enter restraining orders or prohibitions;

(2) issue warrants, process in rem, or other process;

(3) prescribe and accept satisfactory bonds or other security; and

(4) take such other actions as are in the interests of justice.

SEC. 208. CONSULTATIVE COMMITTEE.

(a) ESTABLISHMENT.—The Secretary of State and the Secretary, shall jointly establish a consultative committee to advise the Secretaries on issues related to the Convention.

(b) MEMBERSHIP.—

(1) The membership of the Committee shall include representatives from the New England and Mid-Atlantic Fishery Management Councils, the States represented on those Councils, the Atlantic States Marine Fisheries Commission, the fishing industry, the seafood processing industry, and others knowledgeable and experienced in the conservation and management of fisheries in the Northwest Atlantic Ocean.

(2) TERMS AND REAPPOINTMENT.—Each member of the consultative committee shall serve for a term of two years and shall be eligible for reappointment.

(c) DUTIES OF THE COMMITTEE.—Members of the consultative committee may attend—

(1) all public meetings of the General Council or the Fisheries Commission;

(2) any other meetings to which they are invited by the General Council or the Fisheries Commission; and

(3) all nonexecutive meetings of the United States Commissioners.

(d) RELATIONSHIP TO OTHER LAW.—The Federal Advisory Committee Act (5 U.S.C. [App. §1 et seq.)] *App.*) shall not apply to the consultative committee established under this section.

SEC. 209. ADMINISTRATIVE MATTERS.

(a) PROHIBITION ON COMPENSATION.—A person shall not receive any compensation from the Government by reason of any service of the person as—

(1) a Commissioner, Alternate Commissioner, Representative, or Alternate Representative;

(2) an expert or adviser authorized under section 202(e); or

(3) a member of the consultative committee established by section 208.

(b) TRAVEL AND EXPENSES.—The Secretary of State shall, subject to the availability of appropriations, pay all necessary travel and other expenses of persons described in subsection (a)(1) and of not more than six experts and advisers authorized under section 202(e) with respect to their actual performance of their official duties pursuant to this title, in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code.

(c) STATUS AS FEDERAL EMPLOYEES.—A person shall not be considered to be a Federal employee by reason of any service of the person in a capacity described in subsection (a), except for purposes of injury compensation and tort claims liability under chapter 81 of title 5, United States Code, and chapter 17 of title 28, United States Code, respectively.

SEC. 210. DEFINITIONS.

In this title the following definitions apply:

(1) AUTHORIZED ENFORCEMENT OFFICER.—The term ''authorized enforcement officer'' means a person authorized to enforce this title, any regulation issued under this title, or any measure that is legally binding on the United States under the Convention.

(2) COMMISSIONER.—The term ''Commissioner'' means a United States Commissioner to the Northwest Atlantic Fisheries Organization appointed under section 202(a).

(3) CONVENTION.—The term ''Convention'' means the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries, done at Ottawa on October 24, 1978.

(4) FISHERIES COMMISSION.—The term ''Fisheries Commission'' means the Fisheries Commission provided for by Articles II, XI, XII, XIII, and XIV of the Convention.

(5) GENERAL COUNCIL.—The term ''General Council'' means the General Council provided for by Articles II, III, IV, and V of the Convention.

(6) MAGNUSON ACT.—The term ''Magnuson Act'' means the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(7) ORGANIZATION.—The term ''Organization'' means the Northwest Atlantic Fisheries Organization provided for by Article II of the Convention.

(8) PERSON.—The term ''person'' means any individual (whether or not a citizen or national of the United States), and any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State).

(9) REPRESENTATIVE.—The term ''Representative'' means a United States Representative to the Northwest Atlantic Fisheries Scientific Council appointed under section 202(c).

(10) SCIENTIFIC COUNCIL.—The term ''Scientific Council'' means the Scientific Council provided for by Articles II, VI, VII, VIII, IX, and X of the Convention.

(11) SECRETARY.—The term ''Secretary'' means the Secretary of Commerce.

SEC. 211. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title, including use for payment as the United States contribution to the Organization as provided in Article XVI of the Convention, $500,000 for each of the fiscal years 1995, 1996, [1997] *1997*, and 1998.

TITLE III—ATLANTIC TUNAS CONVENTION ACT

SEC. 301. SHORT TITLE.

This title may be cited as the ''Atlantic Tunas Convention Authorization Act of 1995''.

SEC. 302. RESEARCH AND MONITORING ACTIVITIES.

(a) REPORT TO CONGRESS.—The Secretary of Commerce shall, within 90 days after the date of enactment of this Act, submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives—

(1) identifying current governmental and nongovernmental research and monitoring activities on Atlantic bluefin tuna and other highly migratory species;

(2) describing the personnel and budgetary resources allocated to such activities; and

(3) explaining how each activity contributes to the conservation and management of Atlantic bluefin tuna and other highly migratory species.

(b) RESEARCH AND MONITORING PROGRAM.—Section 3 of the Act of September 4, 1980 (16 U.S.C. 971i) is amended—

(1) by amending the section heading to read as follows:

''SEC. 3. RESEARCH ON ATLANTIC HIGHLY MIGRATORY SPECIES.'';

(2) by striking the last sentence;

(3) by inserting ''(a) BIENNIAL REPORT ON BLUEFIN TUNA.—'' before ''The Secretary of Commerce shall''; and

(4) by adding at the end the following:

''(b) HIGHLY MIGRATORY SPECIES RESEARCH AND MONITORING.—

''(1) Within 6 months after the date of enactment of the Atlantic Tunas Convention Authorization Act of 1995, the Secretary of Commerce, in cooperation with the advisory committee established under section 4 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971b) and in consultation with the United States Commissioners on the International Commission for the Conservation of Atlantic Tunas (referred to elsewhere in this section as the 'Commission') and the Secretary of State, shall develop and implement a comprehensive research and monitoring program to support the conservation and management of Atlantic bluefin tuna and other highly migratory species that shall—

''(A) identify and define the range of stocks of highly migratory species in the Atlantic Ocean, including Atlantic bluefin tuna; and

''(B) provide for appropriate participation by nations which are members of the Commission.

''(2) The program shall provide for, but not be limited to—

''(A) statistically designed cooperative tagging studies;

''(B) genetic and biochemical stock analyses;

''(C) population censuses carried out through aerial surveys of fishing grounds and known migration areas;

''(D) adequate observer coverage and port sampling of commercial and recreational fishing activity;

''(E) collection of comparable real-time data on commercial and recreational catches and landings through the use of permits, logbooks, landing reports for charter operations and fishing tournaments, and programs to provide reliable reporting of the catch by private anglers;

''(F) studies of the life history parameters of Atlantic bluefin tuna and other highly migratory species;

''(G) integration of data from all sources and the preparation of data bases to support management decisions; and

''(H) other research as necessary.

''(3) In developing a program under this section, the Secretary shall provide for comparable monitoring of all United States fishermen to which the Atlantic Tunas Convention Act applies with respect to effort and species composition of catch and discards. The Secretary through the Secretary of State shall encourage other member nations to adopt a similar program.''.

SEC. 303. ADVISORY COMMITTEE PROCEDURES.

Section 4 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971b) is amended—

(1) by inserting ''(a)'' before ''There''; and

(2) by adding at the end the following:

''(b)(1) A majority of the members of the advisory committee shall constitute a quorum, but one or more such members designated by the advisory committee may hold meetings to provide for public participation and to discuss measures relating to the United States implementation of Commission recommendations.

''(2) The advisory committee shall elect a Chairman for a 2-year term from among its members.

''(3) The advisory committee shall meet at appropriate times and places at least twice a year, at the call of the Chairman or upon the request of the majority of its voting members, the United States Commissioners, the Secretary, or the Secretary of State. Meetings of the advisory committee shall be open to the public, and prior notice of meetings shall be made public in a timely fashion.

''(4)(A) The Secretary shall provide to the advisory committee in a timely manner such administrative and technical support services as are necessary for the effective functioning of the committee.

''(B) The Secretary and the Secretary of State shall furnish the advisory committee with relevant information concerning fisheries and international fishery agreements.

''(5) The advisory committee shall determine its organization, and prescribe its practices and procedures for carrying out its functions under this Act, the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), and the Convention. The advisory committee shall publish and make available to the public a statement of its organization, practices, and procedures.

''(6) The advisory committee shall, to the maximum extent practicable, consist of an equitable balance among the various groups concerned with the fisheries covered by the Convention and shall not be subject to the Federal Advisory Committee Act (5 U.S.C. [App. §1 et seq.).''.] *App.).*''.

SEC. 304. REGULATIONS.

Section 6(c)(3) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971d(c)(3)) is amended by adding ''or fishery mortality level'' after ''quota of fish'' in the last sentence.

SEC. 305. FINES AND PERMIT SANCTIONS.

Section 7(e) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971(e)) is amended to read as follows:

''(e) The civil penalty and permit sanctions of section 308 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1858) are hereby made applicable to violations of this section as if they were violations of section 307 of that Act.''.

SEC. 306. AUTHORIZATION OF APPROPRIATIONS.

Section 10 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971h) is amended to read as follows:

''§ 10. Authorization of appropriations

''There are authorized to be appropriated to carry out this Act, including use for payment of the United States share of the joint expenses of the Commission as provided in article X of the Convention, the following sums:

''(1) For fiscal year 1995, $2,750,000, of which $50,000 are authorized in the aggregate for the advisory committee established under section 4 and the species working groups established under section 4A, and $1,500,000 are authorized for research activities under this Act.

''(2) For fiscal year 1996, $4,000,000, of which $62,000 are authorized in the aggregate for such advisory committee and such working groups, and $2,500,000 are authorized for such research activities.

''(3) For fiscal year 1997, $4,000,000 of which $75,000 are authorized in the aggregate for such advisory committee and such working groups, and $2,500,000 are authorized for such research activities.''.

''(4) For fiscal year 1998, $4,000,000 of which $75,000 are authorized in the aggregate for such advisory committee and such working groups, and $2,500,000 are authorized for such research activities.''.

SEC. 307. REPORT AND CERTIFICATION.

The Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971 et seq.) is amended by adding at the end thereof the following:

''§ 11. Annual report

''Not later than April 1, 1996, and annually thereafter, the Secretary shall prepare and transmit to the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report, that—

''(1) details for the previous 10-year period the catches and exports to the United States of highly migratory species (including tunas, swordfish, marlin and sharks) from nations fishing on Atlantic stocks of such species that are subject to management by the Commission;

''(2) identifies those fishing nations whose harvests are inconsistent with conservation and management recommendations of the Commission;

''(3) describes reporting requirements established by the Secretary to ensure that imported fish products are in compliance with all international management measures, including minimum size requirements, established by the Commission and other international fishery organizations to which the United States is a party; and

''(4) describes actions taken by the Secretary under section 12.

''§ 12. Certification

''(a) If the Secretary determines that vessels of any nation are harvesting fish which are subject to regulation pursuant to a recommendation of the Commission and which were taken from the convention area in a manner or under circumstances which would tend to diminish the effectiveness of the conservation recommendations of the Commission, the Secretary shall certify such fact to the President.

''(b) Such certification shall be deemed to be a certification for the purposes of section 8 of the Fishermen's Protective Act (22 U.S.C. 1978).

''(c) Upon certification under subsection (a), the Secretary shall promulgate regulations under section 6(c)(4) with respect to a nation so certified.''.

SEC. 308. MANAGEMENT OF YELLOWFIN TUNA.

(a) Not later than 90 days after the date of the enactment of this Act, the Secretary of Commerce in accordance with this section shall publish a preliminary determination of the level of the United States recreational and commercial catch of yellowfin tuna on an annual basis since 1980. The Secretary shall publish a preliminary determination in the Federal Register for comment for a period not to exceed 60 days. The Secretary shall publish a final determination not later than 140 days from the date of the enactment of this section.

(b) Not later than June 1, 1996, the Secretary of Commerce shall implement the recommendations of International Commission for the Conservation of Atlantic Tunas regarding yellowfin tuna.

TITLE IV—FISHERMEN'S PROTECTIVE ACT

SEC. 401. FINDINGS.

The Congress finds that—

(1) customary international law and the United Nations Convention on the Law of the Sea guarantee the right of passage, including innocent passage, to vessels through the waters commonly referred to as the ''Inside Passage'' off the Pacific Coast of Canada;

(2) Canada recently required all commercial fishing vessels of the United States to pay 1,500 Canadian dollars to obtain a ''license which authorizes transit'' through the Inside Passage;

(3) this action was inconsistent with international law, including the United Nations Convention on the Law of the Sea, and, in particular, Article 26 of that Convention, which specifically prohibits such fees, and threatened the safety of United States commercial fishermen who sought to avoid the fee by traveling in less protected waters;

(4) the Fishermen's Protective Act of 1967 provides for the reimbursement of vessel owners who are forced to pay a license fee to secure the release of a vessel which has been seized, but does not permit reimbursement of a fee paid by the owner in advance in order to prevent a seizure;

(5) Canada required that the license fee be paid in person in 2 ports on the Pacific Coast of Canada, or in advance by mail;

(6) significant expense and delay was incurred by commercial fishing vessels of the United States that had to travel from the point of seizure back to one of those ports in order to pay the license fee required by Canada, and the costs of that travel and delay cannot be reimbursed under the Fishermen's Protective Act;

(7) the Fishermen's Protective Act of 1967 should be amended to permit vessel owners to be reimbursed for fees required by a foreign government to be paid in advance in order to navigate in the waters of that foreign country if the United States considers that fee to be inconsistent with international law;

(8) the Secretary of State should seek to recover from Canada any amounts paid by the United States to reimburse vessel owners who paid the transit license fee;

(9) the United States should review its current policy with respect to anchorage by commercial fishing vessels of Canada in waters of the United States off Alaska, including waters in and near the Dixon Entrance, and should accord such vessels the same treatment that commercial fishing vessels of the United States are accorded for anchorage in the waters of Canada off British Columbia;

(10) the President should ensure that, consistent with international law, the United States Coast Guard has available adequate resources in the Pacific Northwest and Alaska to provide for the safety of United States citizens, the enforcement of United States law, and to protect the rights of the United States and keep the peace among vessels operating in disputed waters;

(11) the President should continue to review all agreements between the United States and Canada to identify other actions that may be taken to convince Canada that any reinstatement of the transit license fee would be against Canada's long-term interests, and should immediately implement any actions which the President deems appropriate if Canada reinstates the fee;

(12) the President should continue to immediately convey to Canada in the strongest terms that the United States will not now, nor at any time in the future, tolerate any action by Canada which would impede or otherwise restrict the right of passage of vessels of the United States in a manner inconsistent with international law; and

(13) the United States should redouble its efforts to seek expeditious agreement with Canada on appropriate fishery conservation and management measures that can be implemented through the Pacific Salmon Treaty to address issues of mutual concern.

SEC. 402. AMENDMENT TO THE FISHERMEN'S PROTECTIVE ACT OF 1967.

(a) The Fishermen's Protective Act of 1967 (22 U.S.C. 1971 et seq.) is amended by adding at the end the following new section:

''SEC. 11. (a) In any case on or after June 15, 1994, in which a vessel of the United States exercising its right of passage is charged a fee by the government of a foreign country to engage in transit passage between points in the United States (including a point in the exclusive economic zone or in an area over which jurisdiction is in dispute), and such fee is regarded by the United States as being inconsistent with international law, the Secretary of State shall reimburse the vessel owner for the amount of any such fee paid under protest.

''(b) In seeking such reimbursement, the vessel owner shall provide, together with such other information as the Secretary of State may require—

''(1) a copy of the receipt for payment;

''(2) an affidavit attesting that the owner or the owner's agent paid the fee under protest; and

''(3) a copy of the vessel's certificate of documentation.

''(c) Requests for reimbursement shall be made to the Secretary of State within 120 days after the date of payment of the fee, or within 90 days after the date of enactment of this section, whichever is later.

''(d) [such] *Such* funds as may be necessary to meet the requirements of this section may be made available from the unobligated balances of previously appropriated funds remaining in the Fishermen's Guaranty Fund established under section 7 and the Fishermen's Protective Fund established under section 9. To the extent that requests for reimbursement under this section exceed such funds, there are authorized to be appropriated such sums as may be needed for reimbursements authorized under subsection (a).

''(e) The Secretary of State shall take such action as the Secretary deems appropriate to make and collect claims against the foreign country imposing such fee for any amounts reimbursed under this section.

''(f) For purposes of this section, the term 'owner' includes any charterer of a vessel of the United States.

''(g) This section shall remain in effect until October 1, 1996.''.

(b) The Fishermen's Protective Act of 1967 (22 U.S.C. 1971 et seq.) is further amended by adding at the end the following:

''SEC. 12. (a) If the Secretary of State finds that the government of any nation imposes conditions on the operation or transit of United States fishing vessels which the United States regards as being inconsistent with international law or an international agreement, the Secretary of State shall certify that fact to the President.

''(b) Upon receipt of a certification under subsection (a), the President shall direct the heads of Federal agencies to impose similar conditions on the operation or transit of fishing vessels registered under the laws of the nation which has imposed conditions on United States fishing vessels.

''(c) For the purposes of this section, the term 'fishing vessel' has the meaning given

that term in section 2101(11a) of title 46, United States Code.

''(d) It is the sense of the Congress that any action taken by any Federal agency under subsection (b) should be commensurate with any conditions certified by the Secretary of State under subsection (a).''.

SEC. 403. REAUTHORIZATION.

(a) Section 7(c) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(c)) is amended by striking the third sentence.

(b) Section 7(e) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(e)) is amended by striking ''October 1, 1993'' and inserting ''October 1, 2000''.

SEC. 404. TECHNICAL CORRECTIONS.

(a)(1) Section 15(a) of Public Law 103–238 is amended by striking ''April 1, 1994,'' and inserting ''May 1, [1994,''.] *1994.*''.

(2) The amendment made by paragraph (1) shall be effective on and after April 30, 1994.

(b) Section 803(13)(C) of Public Law 102–567 (16 U.S.C. 5002(13)(C)) is amended to read as follows:

''(C) any vessel supporting a vessel described in subparagraph (A) or (B).''.

TITLE V—FISHERIES ENFORCEMENT IN CENTRAL SEA OF OKHOTSK

SEC. 501. SHORT TITLE.

This title may be cited as the ''Sea of Okhotsk Fisheries Enforcement Act of 1995''.

SEC. 502. FISHING PROHIBITION.

(a) ADDITION OF CENTRAL SEA OF OKHOTSK.—Section 302 of the Central Bering Sea Fisheries Enforcement Act of 1992 (16 U.S.C. 1823 note) is amended by inserting ''and the Central Sea of Okhotsk'' after ''Central Bering Sea''.

(b) DEFINITION.—Section 306 of such Act is amended—

(1) by redesignating paragraphs (2), (3), (4), (5), and (6) as paragraphs (3), (4), (5), (6), and (7), respectively; and

(2) by inserting after paragraph (1) the following:

''(2) CENTRAL SEA OF OKHOTSK.—The term 'Central Sea of Okhotsk' means the central Sea of Okhotsk area which is more than two hundred nautical miles seaward of the baseline from which the breadth of the territorial sea of the Russian Federation is measured.''.

TITLE VI—DRIFTNET MORATORIUM

SEC. 601. SHORT TITLE.

This title may be cited as the ''High Seas Driftnet Fishing Moratorium Protection Act''.

SEC. 602. FINDINGS.

The Congress finds that—

(1) Congress has enacted and the President has signed into law numerous Acts to control or prohibit large-scale driftnet fishing both within the jurisdiction of the United States and beyond the exclusive economic zone of any nation, including the Driftnet Impact Monitoring, Assessment, and Control Act of 1987 (title IV, Public Law 100–220), the Driftnet Act Amendments of 1990 (Public Law 101–627), and the High Seas Driftnet Fisheries Enforcement Act (title I, Public Law 102–582);

(2) the United States is a party to the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific, also known as the Wellington Convention;

(3) the General Assembly of the United Nations has adopted three resolutions and three decisions which established and reaffirm a global moratorium on large-scale driftnet fishing on the high seas, beginning with Resolution 44/225 in 1989 and most recently in Decision 48/445 in 1993;

(4) the General Assembly of the United Nations adopted these resolutions and decisions at the request of the United States and other concerned nations;

(5) the best scientific information demonstrates the wastefulness and potentially destructive impacts of large-scale driftnet fishing on living marine resources and seabirds; and

(6) Resolution 46/215 of the United Nations General Assembly calls on all nations, both individually and collectively, to prevent large-scale driftnet fishing on the high seas.

SEC. 603. PROHIBITION.

The United States, or any agency or official acting on behalf of the United States, may not enter into any international agreement with respect to the conservation and management of living marine resources or the use of the high seas by fishing vessels that would prevent full implementation of the global moratorium on large-scale driftnet fishing on the high seas, as such moratorium is expressed in Resolution 46/215 of the United Nations General Assembly.

SEC. 604. NEGOTIATIONS.

The Secretary of State, on behalf of the United States, shall seek to enhance the implementation and effectiveness of the United Nations General Assembly resolutions and decisions regarding the moratorium on large-scale driftnet fishing on the high seas through appropriate international agreements and organizations.

SEC. 605. CERTIFICATION.

The Secretary of State shall determine in writing prior to the signing or provisional application by the United States of any international agreement with respect to the conservation and management of living marine resources or the use of the high seas by fishing vessels that the prohibition contained in section 603 will not be violated if such agreement is signed or provisionally applied.

SEC. 606. ENFORCEMENT.

The President shall utilize appropriate assets of the Department of Defense, the United States Coast Guard, and other Federal agencies to detect, monitor, and prevent violations of the United Nations moratorium on large-scale driftnet fishing on the high seas for all fisheries under the jurisdiction of the United States and, in the case of fisheries not under the jurisdiction of the United States, to the fullest extent permitted under international law.

TITLE VII—GOVERNING INTERNATIONAL FISHERY AGREEMENT

SEC. 701. AGREEMENT WITH ESTONIA.

Notwithstanding section 203 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1823), the governing international fishery agreement between the Government of the United States of America and the government of the Republic of Estonia as contained in the message to Congress from the President of the United States dated January 19, 1995, is approved as a governing international fishery agreement for the purposes of such Act and shall enter into force and effect with respect to the United States on the date of enactment of this Act.

AMENDMENT NO. 1488

(Purpose: To correct certain minor and technical errors in the bill)

Mr. DOLE. I ask unanimous consent the reported committee amendment be withdrawn and I send a substitute to the desk on behalf of Senators STEVENS, KERRY, SNOWE, and BREAUX.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for Mr. STEVENS, for himself, Mr. KERRY, Ms. SNOWE, and Mr. BREAUX, proposes an amendment numbered 1488.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. STEVENS. Mr. President, today I urge the Senate to support the passage of S. 267, the Fisheries Act of 1995—what the Subcommittee on Oceans and Fisheries calls ''the international fish package.''

I introduced S. 267 on January 24, 1995. It was approved by the Commerce Committee in executive session on March 23, 1995 and reported to the full Senate on May 26, 1995.

Senators KERRY, GORTON, BREAUX, PACKWOOD, MURKOWSKI, and MURRAY join me as cosponsors to the bill.

What I am presenting today with Senator KERRY is a bipartisan substitute to the reported bill, which includes additions and minor changes I will briefly address.

We've added an important new section—title VII—to the bill that will implement the agreement reached between the United States and Canada on February 3, 1995 to conserve and manage Yukon River salmon stocks.

This agreement and the necessary implementing legislation will help assure commercial and subsistence fishermen living along the Yukon River in both Alaska and Canada that our shared salmon resources are carefully managed and restored in the years ahead.

I introduced the Yukon legislation (S. 662) on April 3, 1995. The committee received testimony on it at our Magnuson Act reauthorization field hearing in Seattle, WA, on March 18, 1995.

The agreement requires the United States to pay $400,000 annually into a Yukon River restoration and enhancement fund for mutually beneficial salmon restoration and enhancement activities along the Yukon River.

The agreement also creates a joint United States/Canada Yukon River panel to make conservation and management recommendations and to help determine how to spend the restoration and enhancement funds.

My provision establishes the U.S. section of the Yukon River panel and authorizes spending for: The U.S. payment, the necessary costs of the panel and an advisory committee, and other costs associated with the conservation and management of Yukon River salmon.

Title III of the bill—which includes amendments to, and the reauthorization of, the Atlantic Tunas Convention Act—has been revised to require a listing procedures by the United States of nations whose vessels are operating in a way that diminishes the effectiveness of conservation efforts in the Atlantic tunas convention area.

We've also added a new provision to require a review of bluefin tuna regulations.

Minor changes have been made in title IV relating to the source of funds to be used to reimburse United States fishermen who paid Canada's transit fee in 1994.

A new provision has been added to title IV to reimburse the legal and travel costs—not to exceed a total of $25,000—of owners of scallop vessels seized by Canada in 1994, who were fishing for sedentary species outside of Canada's exclusive economic zone.

We've deleted a Governing International Fisheries Agreement [GIFA] with Estonia, which already went into effect since the time we introduced S. 267.

We've added a new section—section 801—which amends the South Pacific Tuna Act of 1988 to authorize vessels documented under the laws of the United States to fish for tuna in all waters of the treaty area, including the U.S. exclusive economic zone of that area.

This new section also lifts certain restrictions for fishing for tuna in the treaty area so long as purse seines are not used to encircle any dolphin or other marine mammal.

Finally, we've added a new section—section 802—at Senator SNOWE's request and with Senator KERRY's assistance, to prohibit a foreign allocation in any fishery within the U.S. exclusive economic zone unless a fishery management plan is in place for the fishery.

The new section 802 prohibits the Secretary of Commerce from approving fishing under a permit application by a foreign vessel for Atlantic herring or mackerel unless the appropriate regional fishery management council has approved the fishing—and unless the Secretary of Commerce has included in the permit any restrictions recommended by the council.

I want to thank Senator KERRY and his staff, Penny Dalton, Lila Helms and Steve Metruck for their work on this package. I also want to thank the staff who assisted me with this: Trevor McCabe, Tom Melius and Rebecca Metzner.

We urge the Senate to pass S. 267. We've worked in recent weeks with House members and staff on the House Resources Committee, and believe the package we are presenting today will be acceptable in the House, so that quick action may be possible in getting this passed into law.

Below is a brief summary of the bill:

SUMMARY

Title I (The High Seas Fishing Compliance Act of 1995) provides for the domestic implementation of the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, which was adopted by the U.N. Food and Agriculture Organization in 1993. It would establish a system of permitting, reporting, and regulation for U.S. vessels fishing on the high seas.

Title II (The Northwest Atlantic Fisheries Convention Act) would implement the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries. The Treaty calls for establishment of the Northwest Atlantic Fisheries Organization (NAFO) to assess and conserve high seas fishery resources off the coasts of Canada and New England. Among other provisions, this title would provide for: 1) U.S. representation in NAFO; 2) coordination between NAFO and appropriate Regional Fishery Management Councils; and 3) authorization for the Secretaries of Commerce and State to carry out U.S. responsibilities under the Convention.

Title III (Atlantic Tunas Convention Act) extends the authorization of appropriations for the Atlantic Tunas Convention Act through fiscal year 1998; provides for the development of a research and monitoring program for bluefin tuna and other wide-ranging Atlantic fish stocks; establishes operating procedures for the International Commission for the Conservation of Atlantic Tunas (ICCAT) Advisory Committee; calls for an annual report to be made and addresses actions to be taken with nations that fail to comply with ICCAT recommendations.

Title IV (Fishermen's Protective Act) reauthorizes and amends the Fishermen's Protective Act of 1967 to allow the Secretary of State to reimburse U.S. fishermen forced to pay transit passage fees by a foreign country regarded by the U.S. to be inconsistent with international law. The amendment responds to the $1,500 (Canadian $) transit fee charged to U.S. fishermen last year for passage off British Columbia.

Title V (Sea of Okhotsk) would prohibit U.S. fishermen from fishing in the Central Sea of Okhotsk (known as the ''Peanut Hole'') except where such fishing is conducted in accordance with a fishery agreement to which both the U.S. and Russia are parties.

Title VI (Relating to U.N. Driftnet Ban) would prohibit the U.S. from entering into any international agreement with respect to fisheries, marine resources, the use of the high seas, or trade in fish or fish products that would prevent full implementation of the United Nations global moratorium on large-scale driftnet fishing on the high seas.

Title VII (Yukon River Salmon Act) would provide domestic implementing legislation for the agreement reached between the United States and Canada on February 3, 1995 to conserve and manage Yukon River salmon stocks. It provides for U.S. representation on the Yukon River Panel; establishes voting procedures for the U.S. section of the panel; and authorizes appropriations for the $400,000 annual contribution required by the United States under the agreement for Yukon River salmon restoration and enhancement, as well as other costs associated with salmon conservation on the Yukon River.

Title VIII (Miscellaneous) includes two sections. Section 801 amends the South Pacific Tuna Act of 1988 to authorize vessels documented under the laws of the United States to fish for tuna in all waters of the Treaty Area, including the U.S. Exclusive Economic Zone of that area. It also lifts certain restrictions for fishing for tuna in the Treaty area so long as purse seines are not used to encircle any dolphin or other marine mammal.

Section 802 prohibits a foreign allocation in any fishery within the U.S. exclusive economic zone unless a fishery management plan is in place for the fishery. Section 802 also prohibits the Secretary of Commerce from approving fishing under permit application by a foreign vessel for Atlantic herring or mackerel unless the appropriate regional fishery management council has approved the fishing; and unless the Secretary of Commerce has included in the permit any restrictions recommended by the Council.

ADOPTION OF S. 267

Mr. PRESSLER. Mr. President, S. 267 the Fisheries Act of 1995, is a bill I am pleased to bring to the floor for consideration today. It is comprised of a number of measures that would strengthen international fishery conservation and management.

I would like to recognize the efforts of Senator STEVENS, our Oceans and Fisheries Subcommittee chairman, who along with Senators KERRY, GORTON, MURRAY, and MURKOWSKI introduced the bill. The bill also was cosponsored by Senator BREAUX and Senator PACKWOOD.

Many of the titles in S. 267, were bills introduced in the 103d Congress but not enacted. The Committee on Commerce, Science, and Transportation held a hearing on these matters on July 21, 1994, indicating a strong bipartisan support for these fishery conservation measures.

The Committee on Commerce, Science, and Transportation reported the bill by unanimous vote on March 23, 1995. While only technical amendments were adopted, it was noted that Senator SNOWE was considering an amendment to restrict directed foreign fishing within the EEZ for Atlantic herring and Atlantic mackerel. We have worked with Senator SNOWE to incorporate her concerns into the committee substitute before us and we appreciate her efforts in reaching this compromise.

We also have incorporated provisions addressing conservation of salmon stocks of the Yukon River and regulations and enforcement actions for migratory species managed under the Atlantic Tunas Convention and the South Pacific Tuna Act.

I also want to note that the committee has worked with Senator PACKWOOD, chairman of the Finance Committee and an active member of the Commerce Committee, to address a provision of the bill that deals with amendments to the Atlantic Tunas Convention Act. We appreciate the cooperation that he and his staff have given us on this provision.

I strongly believe that through the proper conservation and management of our Nation's living marine resources, we will enhance economic opportunities for future generations. The bill before us contains a number of provisions important to the conservation of fishery resources in our oceans. It is a noncontroversial bill with bipartisan support.

Mr. President, I strongly support S. 267 and ask my colleagues to join me in it's adoption.

Ms. SNOWE. Mr. President, I am a cosponsor of the substitute to S. 267 offered by Senator STEVENS, and I rise to express support for the amendment.

Before proceeding to discuss the substitute, I want to offer my sincere thanks to the chairman of the Commerce Committee, Senator PRESSLER, and the chairman of the Oceans and

Fisheries Subcommittee, Senator STEVENS, for their assistance to me throughout the process of considering S. 267. Early on, I expressed an interest in offering an amendment to the bill, and the two chairmen and their staffs always showed a willingness to help me as a freshman member of the committee. S. 267 is the first fisheries bill considered by the Commerce Committee in the 104th Congress, and the leadership and skillfulness that the Senators demonstrated in this effort deserves to be commended.

Mr. President, the substitute includes an amendment that I sponsored which is designed to protect two of the few remaining healthy fish stocks in U.S. waters—Atlantic herring and Atlantic mackerel—from foreign fishing pressures. I consider this amendment and the issues that it addresses to be very important for the health of our domestic fishing industry as well as our domestic fish stocks.

As media stories over the last year have reported, the New England groundfish fishery is now experiencing the most serious crisis in its long history. Groundfish stocks in the region have dwindled to record lows, threatening the future viability of this essential resource. Stringent conservation regulations have been implemented in response to the stock decline in an attempt to prevent a collapse of the fishery. In combination, these two factors have drastically reduced fishing opportunities, threatening a centuries-old industry and the livelihoods of thousands of people in coastal communities across the region who depend on it.

And the regulations approved to date are not the end of it. The New England Fishery Management Council is now developing a public hearing document for new fishing effort reduction measures that are even more draconian than the existing regulations.

To survive in the face of such adversity, many fishermen who want to remain on the water will have to catch species besides groundfish. But unfortunately, given present rates of fishing effort, few species offer much opportunity for new harvesting capacity. Two that do are Atlantic herring and Atlantic mackerel. The National Marine Fisheries Service has determined that these stocks are healthy, and that they can withstand higher rates of harvest without endangering the resource.

Utilization of these species by Northeast fishermen has been limited to date because they generate less value in the market than groundfish. Maine has a viable sardine industry that uses a modest portion of the herring resource, and herring are harvested for bait to supply other fisheries like lobster and bluefin tuna. With regard to mackerel, several processors in the Northeast have established markets serving Canada and the Caribbean.

But significant potential for expansion of these domestic industries exists. The mackerel industry hopes to increase market share in the Caribbean and gain a foothold in West Africa, the Middle East, and Eastern Europe. The Maine sardine industry has been trying to expand its markets in Mexico and the Caribbean. As groundfish landings decline, new players are actively pursuing new opportunities in the sustainable development of herring and mackerel. Resource Trading Company of Portland, Maine, has negotiated a deal to sell 25,000 tons of Atlantic herring to China—a market of enormous potential for New England fishermen.

New England fishing interests are not the only ones pursuing our herring and mackerel, however. Foreign countries like Russia and the Netherlands have shown a keen interest in obtaining fishing rights for these species in U.S. waters. In 1993, the Russians and their domestic partner came close in persuading the Administrator of the National Marine Fisheries Service to approve an application to harvest 10,000 tons of Atlantic mackerel— despite the fact that the Mid-Atlantic Fishery Management Council had specified that no foreign fishing rights for mackerel be granted. Since that time, the Dutch, acting through the European Union, have aggressively pursued foreign fishing rights for mackerel, and the Russians have continued to push for a portion of the stock.

Mr. President, it would be unconscionable for the U.S. Government to allow foreign countries to begin harvesting two of the only healthy stocks left in U.S waters while New England fishermen lose their jobs as a result of the groundfish crisis. Since the process of developing strict fishing regulations for groundfish began four years ago, Federal fisheries managers and policymakers have encouraged groundfishermen to pursue alternatives or ''underutilized'' species like herring and mackerel. They have cited this option as an important way to help some fishermen stay in business during the recovery period for goundfish. To give away our fish to foreign fishermen at this critical time, after all of the rhetoric about developing underutilized species, would be a slap in the face to our fishermen. We should instead help fishermen and processors develop these resources in a sustainable manner, and the best way that we can do that is to provide assurances that sufficient quantities of fish will be available to meet the needs of our industry. We need to give entrepreneurs and fishermen the time to develop new products and markets so that they can compete all over the world with the same countries who seek the last of our healthy fish stocks.

Out of my great concern for the future of the fishing industry in Maine and New England, and out of my strong desire to see American fishermen sustainable utilize Atlantic herring and mackerel, I offered an amendment during committee consideration of S. 267 which would have imposed a 4-year moratorium on the granting of foreign harvesting rights for these two species. This moratorium would have given our industry adequate time to create new products, markets, and associated infrastructure in herring and mackerel. It would have preserved valuable jobs in the New England fishing industry, and it would have done so without strengthening the position of our foreign competitors. The Resource Trading Company deal that I mentioned earlier, which involves only U.S. fishermen, shows clearly the great potential that exists.

In committee, however, Senator GORTON expressed reservations about my amendment. A company based in Washington State that has operated in Russian waters and that is pursuing new markets in Russia was concerned that such a strong statement from the United States on fisheries could negatively affect some of its ongoing business. I agreed to work with Senator GORTON, as well as Senators KERRY, STEVENS, and PRESSLER, to work out a compromise acceptable to all parties.

Fortunately, we were able to reach an agreement on a new amendment that I sponsored and that Senator Kerry agreed to cosponsor. The amendment is contained in the Stevens Substitute under consideration today. It has two provisions.

First, the amendment prohibits the awarding of any foreign harvesting rights for any fishery that is not subject to a fishery management plan under the Magnuson Act. At a bare minimum, no foreign harvesting should be allowed unless a strict regime for managing the harvest is in place. Atlantic herring does not have a council-approved fishery management plan at the present time, so this provision will protect the herring resource from foreign fishing pressure until the New England Fishery Management Council approves a plan.

Second, the amendment adds a new layer of scrutiny to any applications submitted by foreign countries for the harvest of Atlantic herring and mackerel in U.S. waters. Under the current procedures in the Magnuson Act, the regional fishery management council of jurisdiction is required to specify whether foreign harvesting of a particular species should be allowed. The Secretary of Commerce is encouraged to follow the Council's guidance on foreign fishing, but he is not bound by it. In effect, the Secretary can disagree with the Council, and approve a foreign fishing application despite the Council's reservations.

My amendment prohibits the Secretary from approving a foreign fishing application for herring and mackerel unless the council of jurisdiction recommends approval of it. In the absence of explicit Council agreement, the Secretary will no longer be able to grant foreign fishing rights. A foreign applicant will therefore have to convince not only the Commerce and State departments, but the regional council that was established to conserve the

marine fisheries resources of the region, and whose membership is drawn in part from the regional fishing industry. While I would have preferred a moratorium, this new provision will make it more difficult for foreign countries to gain access to our important herring and mackerel resources.

Mr. President, I also wanted to mention a couple of additional amendments contained in the substitute that I cosponsored. Both amendments relate to the management and conservation of Atlantic bluefin tuna and other highly migratory species in the Atlantic.

Last year, pursuant to a request from the Maine and Massachusetts congressional delegations, a scientific peer review panel convened under the auspices of the National Research Council issued an important report that criticized NOAA's scientific work on Atlantic bluefin tuna. The report contained a number of significant findings, but perhaps most significant was the panel's finding that NOAA scientists had erroneously estimated Western Atlantic bluefin population trends since 1988. Rather than a continuing decline during that period, the NRC panel concluded that the stock had remained stable.

Because the International Commission for the Conservation of Atlantic Tunas, to which the United States belongs, relies heavily on NOAA's bluefin science, the NRC peer review report had a profound impact on Atlantic bluefin management. Whereas ICCAT and NOAA had been advocating a 40 percent cut in the Western Atlantic bluefin quota before the report was issued, ICCAT actually approved a slight increase in the existing quota after the report's findings were published. Tuna fishermen in New England, where most of the commercial fishery for the species in the United States exists, had long criticized the quality of NOAA's bluefin science. The NRC report reinforced those criticisms.

This episode points out the need for improved fisheries science in general, and improved research on highly migratory species like Atlantic bluefin tuna, in particular. One way that we can improve research on bluefin and other highly migratory species is to ensure that the scientists who conduct stock assessments and monitoring programs are wholly familiar with the conditions of the primary fisheries for the species. In the case of Atlantic bluefin tuna, most of the scientific activity is conducted at NOAA's Southeast Fisheries Science Center in Miami, even though the overwhelming majority of the commercial fishing activity for the species takes place in the Northeast, and much of the data used by scientists is collected from this fishery.

Senator KERRY sponsored an amendment, which I cosponsored, that requires NOAA to ensure that the personnel and resources of each regional fisheries research center participate substantially in the stock assessments and monitoring of highly migratory species that occur in the region. Hopefully, this provision will bring scientists closer to the fishery, stimulate fresh thinking about fisheries science, and lead to improvements in NOAA's scientific program. Senator KERRY and I have also asked for administrative action on this matter, and we will continue our efforts in that regard after S. 267 is enacted.

I had also cosponsored another amendment offered by Senator BREAUX pertaining to the enforcement of ICCAT conservation measures. Western Atlantic fishermen, particularly American fishermen, have abided by ICCAT's rules since the first stringent quotas were implemented in the early 1980's. Unfortunately, some fishermen from other countries don't appreciate the need for conservation or international agreements the way that our fishermen do, and they harvest highly migratory species in the Atlantic in a reckless and unsustainable manner.

To give ICCAT conservation recommendations greater force, Senator BREAUX drafted an amendment which would have required the Secretary of Commerce to certify that ICCAT has adopted an effective multilateral process providing for restrictive trade measures against countries that fail to address reckless and damaging fishing practices by their citizens. If ICCAT failed to adopt such a process, the Breaux/Snowe amendment would have required the administration to initiate bilateral consultations with problem nations. And in the event that consultations proved unsuccessful and the country in question failed to address unsustainable fishing practices by its nationals, the amendment would have required the Secretary of the Treasury to impose a ban on the imports of certain fish and fish products from that country.

Unfortunately, due to jurisdictional problems in the House that threatened to derail this entire bill, it was decided that the sanctions language in the original Breaux-Snowe amendment would not be included in the substitute. We did, however, include language similar to the other provisions of the amendment which require the Secretary to identify problem nations, and which authorize the President to initiate consultations on conservation-related issues with the governments of these problem nations. I would have preferred the original language, but this was the best that we could do without risking the entire bill.

Let me state, Mr. President, that I do not think the issue of foreign compliance with ICCAT recommendations ends here. I intend to continue monitoring this issue, and if no more progress is made, I think that the Commerce Committee should be prepared to revisit it. We owe it to American fishermen who play by the rules, and to our highly migratory fisheries resources, to ensure that foreign countries are doing their part to conserve these important natural resources.

Mr. President, the amendments that I have described will significantly improve S. 267, and improve U.S. efforts to manage its marine fisheries. I urge my colleagues to support the substitute, and to support S. 267 as amended.

Mr. KERRY. Mr. President, I am pleased to express my pleasure as the Senate prepares to pass the Fisheries Act of 1995. This legislation addresses an issue of great importance to the people of Massachusetts, the Nation, and, indeed, the world—the promotion of sustainable fisheries on a worldwide basis.

One of the world's primary sources of dietary protein, marine fish stocks were once thought to be an inexhaustible resource. However, after peaking in 1989 at a record 100 million metric tons, world fish landings now have begun to decline. The current state of the world's fisheries has both environmental and political implications. Last year, the United Nations Food and Agriculture Organization [FAO] estimated that 13 of 17 major ocean fisheries may be in trouble. Competition among nations for dwindling resources has become all too familiar in many locations around the world.

The bill we are passing today will strengthen international fisheries management. Among the provisions reinforcing U.S. commitments to conserve and manage global fisheries, are the following: First, implementation of the FAO Agreement to Promote Compliance with International Convention and Management Measures by Fishing Vessels on the High Seas that would establish a system regulating U.S. vessels fishing on the high seas; second, implementation of the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries that would provide for U.S. representation in the Northwest Atlantic Fisheries Organization [NAFO] and coordination between NAFO and appropriate Regional Fishery Management Councils; third, improved research and international cooperation with respect to Atlantic bluefin tuna and other valuable highly migratory species; fourth, reimbursement of U.S. fishermen for illegal transit fees charged by the Canadian Government and for legal fees and costs incurred by the owners of vessels that were seized by the Canadian Government in a jurisdictional dispute that were necessary and related to securing the prompt release of the vessel; fifth, a ban on U.S. fishing activities in the central Sea of Okhotsk except where such fishing is conducted in accordance with a fishery agreement to which both the United States and Russia are parties; sixth, a prohibition on U.S. participation in international agreements on fisheries, marine resources, the use of the high seas, or trade in fish or fish products which undermine the United Nations moratorium on large-scale driftnet fishing on

the high seas; seventh, implementation of an interim agreement between the United States and Canada for the conservation of salmon stocks originating from the Yukon River in Canada; eighth, permission for U.S. documented vessels to fish for tuna in waters of the South Pacific Tuna Act of 1988 Area; and ninth, prohibition of a foreign allocation in any fishery within the United States exclusive economic zone unless a fishery management plan is in place for the fishery and the appropriate regional fishing council recommends the allocation.

This bill will make a substantial contribution to U.S. leadership in the conservation and management of international fisheries. I want to acknowledge the leadership on this issue of the chairman of the Oceans and Fisheries Subcommittee, my friend the senior Senator from Alaska. It has been a pleasure working with him. I also want to thank the committee's distinguished ranking member, Senator HOLLINGS, for his support on this bill. I also would like to recognize the staffs of the Commerce Committee for their diligence and their truly bipartisan efforts to bring this bill to the floor, specifically Penny Dalton and Lila Helms from the Democratic Staff and Tom Melius and Trevor Maccabe on the Republican side.

Mr. DOLE. I ask unanimous consent the substitute amendment be agreed to, the bill be deemed read a third time; further that the Commerce Committee be immediately discharged from further consideration of H.R. 716 and the Senate proceed to its immediate consideration, that all after the enacting clause be stricken and the text of S. 267, as amended, be inserted in lieu thereof, further that H.R. 716 be considered read a third time, passed as amended, the motion to reconsider be laid upon the table, and any statements related to the bill appear at appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 716), as amended, was considered read the third time and passed.

Mr. DOLE. Mr. President, I now ask unanimous consent S. 267 be placed back on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

ANAKTUVUK PASS LAND EXCHANGE AND WILDERNESS REDESIGNATION ACT

Mr. DOLE. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of calendar 67, H.R. 400.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 400) to provide for the exchange of lands within Gates of the Arctic National Park and Preserve.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Anaktuvuk Pass Land Exchange and Wilderness Redesignation Act of 1995''.

TITLE I—ANAKTUVUK PASS LAND EXCHANGE AND WILDERNESS REDESIGNATION

SEC. 101. FINDINGS.

The Congress makes the following findings:

(1) The Alaska National Interest Lands Conservation Act (94 Stat. 2371), enacted on December 2, 1980, established Gates of the Arctic National Park and Preserve and Gates of the Arctic Wilderness. The village of Anaktuvuk Pass, located in the highlands of the central Brooks Range, is virtually surrounded by these national park and wilderness lands and is the only Native village located within the boundary of a National Park System unit in Alaska.

(2) Unlike most other Alaskan Native communities, the village of Anaktuvuk Pass is not located on a major river, lake, or coastline that can be used as a means of access. The residents of Anaktuvuk Pass have relied increasingly on snow machines in winter and all-terrain vehicles in summer as their primary means of access to pursue caribou and other subsistence resources.

(3) In a 1983 land exchange agreement, linear easements were reserved by the Inupiat Eskimo people for use of all-terrain vehicles across certain national park lands, mostly along stream and river banks. These linear easements proved unsatisfactory, because they provided inadequate access to subsistence resources while causing excessive environmental impact from concentrated use.

(4) The National Park Service and the Nunamiut Corporation initiated discussions in 1985 to address concerns over the use of all-terrain vehicles on park and wilderness land. These discussions resulted in an agreement, originally executed in 1992 and thereafter amended in 1993 and 1994, among the National Park Service, Nunamiut Corporation, the City of Anaktuvuk Pass, and Arctic Slope Regional Corporation. Full effectuation of this agreement, as amended, by its terms requires ratification by the Congress.

SEC. 102. RATIFICATION OF AGREEMENT.

(a) RATIFICATION.—

(1) IN GENERAL.—The terms, conditions, procedures, covenants, reservations and other provisions set forth in the document entitled ''Donation, Exchange of Lands and Interests in Lands and Wilderness Redesignation Agreement Among Arctic Slope Regional Corporation, Nunamiut Corporation, City of Anaktuvuk Pass and the United States of America'' (hereinafter referred to in this Act as ''the Agreement''), executed by the parties on December 17, 1992, as amended, are hereby incorporated in this Act, are ratified and confirmed, and set forth the obligations and commitments of the United States, Arctic Slope Regional Corporation, Nunamiut Corporation and the City of Anaktuvuk Pass, as a matter of Federal law.

(2) LAND ACQUISITION.—Lands acquired by the United States pursuant to the Agreement shall be administered by the Secretary of the Interior (hereinafter referred to as the ''Secretary'') as part of Gates of the Arctic National Park and Preserve, subject to the laws and regulations applicable thereto.

(b) MAPS.—The maps set forth as Exhibits C1, C2, and D through I to the Agreement depict the lands subject to the conveyances, retention of surface access rights, access easements and all-terrain vehicle easements. These lands are depicted in greater detail on a map entitled ''Land Exchange Actions, Proposed Anaktuvuk Pass Land Exchange and Wilderness Redesignation, Gates of the Arctic National Park and Preserve'', Map No. 185/80,039, dated April 1994, and on file at the Alaska Regional Office of the National Park Service and the offices of Gates of the Arctic National Park and Preserve in Fairbanks, Alaska. Written legal descriptions of these lands shall be prepared and made available in the above offices. In case of any discrepancies, Map No. 185/80,039 shall be controlling.

SEC. 103. NATIONAL PARK SYSTEM WILDERNESS.

(a) GATES OF THE ARCTIC WILDERNESS.—

(1) REDESIGNATION.—Section 701(2) of the Alaska National Interest Lands Conservation Act (94 Stat. 2371, 2417) establishing the Gates of the Arctic Wilderness is hereby amended with the addition of approximately 56,825 acres as wilderness and the rescission of approximately 73,993 acres as wilderness, thus revising the Gates of the Arctic Wilderness to approximately 7,034,832 acres.

(2) MAP.—The lands redesignated by paragraph (1) are depicted on a map entitled ''Wilderness Actions, Proposed Anaktuvuk Pass Land Exchange and Wilderness Redesignation, Gates of the Arctic National Park and Preserve'', Map No. 185/80,040, dated April 1994, and on file at the Alaska Regional Office of the National Park Service and the office of Gates of the Arctic National Park and Preserve in Fairbanks, Alaska.

(b) NOATAK NATIONAL PRESERVE.—Section 201(8)(a) of the Alaska National Interest Land Conservation Act (94 Stat. 2380) is amended by—

(1) striking ''approximately six million four hundred and sixty thousand acres'' and inserting in lieu thereof ''approximately 6,477,168 acres''; and

(2) inserting ''and the map entitled 'Noatak National Preserve and Noatak Wilderness Addition' dated September 1994'' after ''July 1980''.

(c) NOATAK WILDERNESS.—Section 701(7) of the Alaska National Interest Lands Conservation Act (94 Stat. 2417) is amended by striking ''approximately five million eight hundred thousand acres'' and inserting in lieu thereof ''approximately 5,817,168 acres''.

SEC. 104. CONFORMANCE WITH OTHER LAW.

(a) ALASKA NATIVE CLAIMS SETTLEMENT ACT.—All of the lands, or interests therein, conveyed to and received by Arctic Slope Regional Corporation or Nunamiut Corporation pursuant to the Agreement shall be deemed conveyed and received pursuant to exchanges under section 22(f) of the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, 1621(f)). All of the lands or interests in lands conveyed pursuant to the Agreement shall be conveyed subject to valid existing rights.

(b) ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT.—Except to the extent specifically set forth in this Act or the Agreement, nothing in this Act or in the Agreement shall be construed to enlarge or diminish the rights, privileges, or obligations of any person, including specifically the preference for subsistence uses and access to subsistence resources provided under the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.).

TITLE II—ALASKA PENINSULA SUBSURFACE CONSOLIDATION

SEC. 201. DEFINITIONS.

As used in this Act:

(1) AGENCY.—The term agency—

(A) means—

(i) any instrumentality of the United States; and

(ii) any Government corporation (as defined in section 9101(1) of title 31, United States Code); and

(B) includes any element of an agency.

(2) ALASKA NATIVE CORPORATION.—The term ''Alaska Native Corporation'' has the same meaning as is provided for ''Native Corporation'' in section 3(m) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(m)).

(3) KONIAG.—The term ''Koniag'' means Koniag, Incorporated, which is a Regional Corporation.

(4) KONIAG ACCOUNT.—The term ''Koniag Account'' means the account established under section 4.

(5) PROPERTY.—The term ''property'' has the same meaning as is provided in section 12(b)(7)(vii) of Public Law 94–204 (43 U.S.C. 1611 note).

(6) REGIONAL CORPORATION.—The term ''Regional Corporation'' has the same meaning as is provided in section 3(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(g)).

(7) SECRETARY.—Except as otherwise provided, the term ''Secretary'' means the Secretary of the Interior.

(8) SELECTION RIGHTS.—The term ''selection rights'' means those rights granted to Koniag, pursuant to subsections (a) and (b) of section 12, and section 14(h)(8), of the Alaska Native Claims Settlement Act (43 U.S.C. 1611 and 1613(h)(8)), to receive title to the oil and gas rights and other interests in the subsurface estate of the approximately 275,000 acres of public lands in the State of Alaska identified as ''Koniag Selections'' on the map entitled ''Koniag Interest Lands, Alaska Peninsula'', dated May 1989.

SEC. 202. ACQUISITION OF KONIAG SELECTION RIGHTS.

(a) The Secretary shall determine, pursuant to subsection (b) hereof, the value of Selection Rights which Koniag possesses within the boundaries of Aniakchak National Monument and Preserve, Alaska Peninsula National Wildlife Refuge, and Becharof National Wildlife Refuge.

(b) VALUE.—

(1) IN GENERAL.—The value of the selection rights shall be equal to the fair market value of—

(A) the oil and gas interests in the lands or interests in lands that are the subject of the selection rights; and

(B) in the case of the lands or interests in lands for which Koniag is to receive the entire subsurface estate, the subsurface estate of the lands or interests in lands that are the subject of the selection rights.

(2) APPRAISAL.—

(A) SELECTION OF APPRAISER.—

(i) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary and Koniag shall meet to select a qualified appraiser to conduct an appraisal of the selection rights. Subject to clause (ii), the appraiser shall be selected by the mutual agreement of the Secretary and Koniag.

(ii) FAILURE TO AGREE.—If the Secretary and Koniag fail to agree on an appraiser by the date that is 60 days after the date of the initial meeting referred to in clause (i), the Secretary and Koniag shall, by the date that is not later than 90 days after the date of the initial meeting, each designate an appraiser who is qualified to perform the appraisal. The 2 appraisers so identified shall select a third qualified appraiser who shall perform the appraisal.

(B) STANDARDS AND METHODOLOGY.—The appraisal shall—

(i) be conducted in conformity with the standards of the Appraisal Foundation (as defined in section 1121(9) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3350(9)); and

(ii) utilize risk adjusted discounted cash flow methodology.

(C) SUBMISSION OF APPRAISAL REPORT.—Not later than 180 days after the selection of an appraiser pursuant to subparagraph (A), the appraiser shall submit to the Secretary and to Koniag a written appraisal report specifying the value of the selection rights and the methodology used to arrive at the value.

(3) DETERMINATION OF VALUE.—

(A) DETERMINATION BY THE SECRETARY.—Not later than 60 days after the date of the receipt of the appraisal report under paragraph (2)(C), the Secretary shall determine the value of the selection rights and shall notify Koniag of the determination.

(B) ALTERNATIVE DETERMINATION OF VALUE.—

(i) IN GENERAL.—Subject to clause (ii), if Koniag does not agree with the value determined by the Secretary under subparagraph (A), the procedures specified in section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)) shall be used to establish the value.

(ii) AVERAGE VALUE LIMITATION.—The average value per acre of the selection rights shall not be more than $300.

SEC. 203. KONIAG ACCOUNT.

(a) IN GENERAL.—

(1) The Secretary shall enter into negotiations for an agreement or agreements to exchange Federal lands or interests therein which are in the State of Alaska for the Koniag Selection Rights referred to in section 202.

(2) If the value of the Federal lands to be exchanged is less than the value of the Koniag Selection Rights established in section 202, then the Secretary may exchange the Federal lands for an equivalent portion of the Koniag Selection Rights. The remaining selection rights shall remain available for additional exchanges.

(3) For purposes of this section, the term ''Federal lands'' means lands or interests therein located in Alaska, administered by the Secretary and the title to which is in the United States but excluding all lands and interests therein which are located within a conservation system unit as defined in the Alaska National Interest Lands Conservation Act section 102(4).

(b) ACCOUNT.—

(1) IN GENERAL.—With respect to any Koniag Selection Rights for which an exchange has not been completed by October 1, 2004 (hereafter in this section referred to as ''remaining selection rights''), the Secretary of the Treasury, in consultation with the Secretary, shall, notwithstanding any other provision of law, establish in the Treasury of the United States, an account to be known as the Koniag Account. Upon the relinquishment of the remaining selection rights to the United States, the Secretary shall credit the Koniag Account in the amount of the appraised value of the remaining selection rights.

(2) INITIAL BALANCE.—The initial balance of the Koniag Account shall be equal to the value of the selection rights as determined pursuant to section 3(b).

(3) USE OF ACCOUNT.—

(A) IN GENERAL.—Amounts in the Koniag Account shall—

(i) be made available by the Secretary of the Treasury to Koniag for bidding on and purchasing property sold at public sale, subject to the conditions described in this paragraph; and

(ii) remain available until expended.

(B) ASSIGNMENT.—

(i) IN GENERAL.—Subject to clause (ii) and notwithstanding any other provision of law, the right to request the Secretary of the Treasury to withdraw funds from the Koniag Account shall be assignable in whole or in part by Koniag.

(ii) NOTICE OF ASSIGNMENT.—No assignment shall be recognized by the Secretary of the Treasury until Koniag files written notice of the assignment with the Secretary of the Treasury and the Secretary.

(C) BIDDING AND PURCHASING.—

(i) IN GENERAL.—Koniag may use the Koniag Account to—

(I) bid, in the same manner as any other bidder, for any property at any public sale by an agency; and

(II) purchase the property in accordance with applicable laws, including the regulations of the agency offering the property for sale.

(ii) REQUIREMENTS FOR AGENCIES.—In conducting a transaction described in clause (i), an agency shall accept, in the same manner as cash, an amount tendered from the Koniag Account.

(iii) ADJUSTMENT OF BALANCE.—The Secretary of the Treasury shall adjust the balance of the Koniag Account to reflect each transaction under clause (i).

(4) SPECIAL PROCEDURES.—The Secretary of the Treasury, in consultation with the Secretary, shall establish procedures to permit the Koniag Account to—

(A) receive deposits;

(B) make deposits into escrow when an escrow is required for the sale of any property; and

(C) reinstate to the Koniag Account any unused escrow deposits if a sale is not consummated.

(c) TREATMENT OF AMOUNTS FROM ACCOUNT.—The Secretary of the Treasury shall—

(1) deem as a cash payment any amount tendered from the Koniag Account and received by an agency as a proceed from a public sale of property; and

(2) make any transfer necessary to permit the agency to use the proceed in the event an agency is authorized by law to use the proceed for a specific purpose.

(d) REQUIREMENT FOR THE ADMINISTRATION OF SALES.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary of the Treasury and the heads of agencies shall administer sales described in subsection (a)(3)(C) in the same manner as is provided for any other Alaska Native Corporation that—

(A) is authorized by law as of the date of enactment of this Act; and

(B) has an account similar to the Koniag Account for bidding on and purchasing property sold for public sale.

(2) PROHIBITION.—Amounts in an account established for the benefit of a specific Alaska Native Corporation may not be used to satisfy the property purchase obligations of any other Alaskan Native Corporation.

(e) REVENUES.—The Koniag Account shall be deemed to be an interest in the subsurface for purposes of section 7(i) of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

SEC. 204. CERTAIN CONVEYANCES.

(a) INTERESTS IN LAND.—For the purpose of section 21(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1620(c)), the following shall be deemed to be an interest in land:

(1) The establishment of the Koniag Account and the right of Koniag to request the Secretary of the Treasury to withdraw funds from the Koniag Account.

(2) The receipt by a Settlement Trust (as defined in section 3(t) of such Act (43 U.S.C. 1602(t)) of a conveyance by Koniag of any right in the Koniag Account.

(b) AUTHORITY TO APPOINT TRUSTEES.—In establishing a Settlement Trust under section 39 of such Act (43 U.S.C. 1629e), Koniag may delegate the authority granted to Koniag under subsection (b)(2) of such section to any entity that Koniag may select without affecting the status of the Settlement Trust under this section.

AMENDMENT NO. 1489

(Purpose: To amend title II of the committee amendment)

Mr. DOLE. Mr. President, I send an amendment to the desk on behalf of Senator MURKOWSKI and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for Mr. MURKOWSKI, proposes an amendment numbered 1489.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12 of the reported measure, beginning on line 13, delete all of Title II and insert in lieu thereof the following:

TITLE II—ALASKA PENINSULA SUBSURFACE CONSOLIDATION

SEC. 201. DEFINITIONS.

As used in this Act:

(1) AGENCY.—The term agency—

(A) means—

(i) any instrumentality of the United States; and

(ii) any Government corporation (as defined in section 9101(1) of title 31 United States Code); and

(B) includes any element of an agency.

(2) ALASKA NATIVE CORPORATION.—The term ''Alaska Native Corporation'' has the same meaning as is provided for ''Native Corporation'' in section 3(m) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(m)).

(3) FEDERAL LANDS OR INTEREST THEREIN—The term ''Federal lands or interests therein'' means any lands or properties owned by the United States (i) which are administered by the Secretary, or (ii) which are subject to a lease to third parties, or (iii) which have been made available to the Secretary for exchange under this section through the concurrence of the director of the agency administering such lands or properties; provided, however, excluded from such lands shall be those lands which are within an existing conservation system unit as defined in section 102(4) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(4)), and those lands the mineral interest for which are currently under mineral lease.

(4) KONIAG.—The term ''Koniag'' means Koniag, Incorporated, which is a Regional Corporation.

(5) REGIONAL CORPORATION.—The term ''Regional Corporation'' has the same meaning as is provided in section 3(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(g)).

(6) SECRETARY.—Except as otherwise provided, the term ''Secretary'' means the Secretary of the Interior.

(7) SELECTION RIGHTS.—The term ''selection rights'' means those rights granted to Koniag, pursuant to subsections (a) and (b) of section 12, and section 14(h)(8), of the Alaska Native Claims Settlement Act (43 U.S.C. 1611 and 1613(h)(8)), to receive title to the oil and gas rights and other interests in the subsurface estate of the approximately 275,000 acres of public lands in the State of Alaska identified as ''Koniag Selections'' on the map entitled ''Koniag Interest Lands, Alaska Peninsula,'' dated May 1989.

SEC. 202. VALUATION OF KONIAG SELECTION RIGHTS.

(a) Pursuant to the provisions of subsection (b) hereof, the Secretary shall value the selection rights which Koniag possesses within the boundaries of Aniakchak National Monument and Preserve, Alaska Peninsula National Wildlife Refuge, and Becharof National Wildlife Refuge.

(b) VALUE.—

(1) IN GENERAL.—The value of the selection rights shall be equal to the fair market value of—

(A) the oil and gas interests in the lands or interests in lands that are the subject of the selection rights; and

(B) in the case of the lands or interests in lands for which Koniag is to receive the entire subsurface estate, the subsurface estate of the lands or interests in lands that are the subject of the selection rights.

(2) APPRAISAL.—

(A) SELECTION OF APPRAISER.—

(i) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary and Koniag shall meet to select a qualified appraiser to conduct an appraisal of the selection rights. Subject to clause (ii), the appraiser shall be selected by the mutual agreement of the Secretary and Koniag.

(ii) FAILURE TO AGREE.—If the Secretary and Koniag fail to agree on an appraiser by the date that is 60 days after the date of the initial meeting referred to in clause (i), the Secretary and Koniag shall, by the date that is not later than 90 days after the date of the initial meeting, each designate an appraiser who is qualified to perform the appraisal. The 2 appraisers so identified shall select a third qualified appraiser who shall perform the appraisal.

(B) STANDARDS AND METHODOLOGY.—The appraisal shall be conducted in conformity with the standards of the Appraisal Foundation (as defined in section 1121(9) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3350(9)).

(C) SUBMISSION OF APPRAISAL REPORT.—Not later than 180 days after the selection of an appraiser pursuant to subparagraph (A), the appraiser shall submit to the Secretary and to Koniag a written appraisal report specifying the value of the selection rights and the methodology used to arrive at the value.

(3) DETERMINATION OF VALUE.—

(A) DETERMINATION BY THE SECRETARY.—Not later than 60 days after the date of the receipt of the appraisal report under paragraph (2)(C), the Secretary shall determine the value of the selection rights and shall notify Koniag of the determination.

(B) ALTERNATIVE DETERMINATION OF VALUE.—

(i) IN GENERAL.—Subject to clause (ii), if Koniag does not agree with the value determined by the Secretary under subparagraph (A), the procedures specified in section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)) shall be used to establish the value.

(ii) AVERAGE VALUE LIMITATION.—The average value per acre of the selection rights shall not be less than the value utilizing the risk adjusted discount cash flow methodology, but in no event may exceed $300.

SEC. 203. KONIAG EXCHANGE.

(a) IN GENERAL.—

(1) The Secretary shall enter into negotiations for an agreement or agreements to exchange Federal lands or interests therein which are in the State of Alaska for the selection rights.

(2) if the value of the federal property to be exchanged is less than the value of the selection rights established in Section 202, and if such federal property to be exchanged is not generating receipts to the federal government in excess of one million dollars per year, than the Secretary may exchange the federal property for that portion of the selection rights having a value equal to that of the federal property. The remaining selection rights shall remain available for additional exchanges.

(3) For the purposes of any exchange to be consummated under this Title II, if less than all of the selection rights are being exchanged, then the value of the selection rights being exchanged shall be equal to the number of acres of selection rights being exchanged multiplied by a fraction, the numerator of which is the value of all the selection rights as determined pursuant to Section 202 hereof and the denominator of which is the total number of acres of selection rights.

(2) ADDITIONAL EXCHANGES.—If, after ten years from the date of enactment of this Act, the Secretary has been unable to conclude such exchanges as may be required to acquire all of the selection rights, he shall conclude exchanges for the remaining selection rights for such federal property as may be identified by Koniag, which property is available for transfer to the administrative jurisdiction of the Secretary under any provision of law and which property, at the time of the proposed transfer to Koniag is not generating receipts to the federal government in excess of one million dollars per year. The Secretary shall keep Koniag advised in a timely manner as to which properties may be available for such transfer. Upon receipt of such identification by Koniag, the Secretary shall request in a timely manner the transfer of such identified property to the administrative jurisdiction of the Department of the Interior. Such property shall not be subject to the geographic limitations of section 206(b) of the Federal Land Policy and Management Act and may be retained by the Secretary solely for the purposes of transferring it to Koniag to complete the exchange. Should the value of the property so identified by Koniag be in excess of the value of the remaining selection rights, then Koniag shall have the option of (i) declining to proceed with the exchange and identifying other property or (ii) paying the difference in value between the property rights.

(c) REVENUES.—Any property received by Koniag in an exchange entered into pursuant to subsection (a) or (b) of this section shall be deemed to be an interest in the subsurface for purposes of section 7(i) of the Alaska Native Claims Settlement Act (43 U.S.C. 1601, *et seq.*); provided, however, should Koniag make a payment to equalize the value in any such exchange, then Koniag will be deemed to hold an undivided interest in the property equal in value to such payment which interest shall not be subject to the provisions of section 9(j).

SEC. 206. CERTAIN CONVEYANCES.

(a) INTERESTS IN LAND.—For the purposes of section 21(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1620(e)), the receipt of consideration, including, but not limited to, lands, cash or other property, by a Native Corporation for the relinquishment to the United States of land selection rights granted to any Native Corporation under such Act shall be deemed to be an interest in land.

(b) AUTHORITY TO APPOINT AND REMOVE TRUSTEE.—In establishing a Settlement Trust under section 39 of such Act (43 U.S.C. 1629c), Koniag may delegate, in whole or part, the authority granted to Koniag under subsection (b)(2) of such section to any entity that Koniag may select without affecting the status of the trust as a Settlement Trust under such section.

TITLE III—STERLING FOREST

SECTION 301. SHORT TITLE.

This title may be cited as the ''Sterling Forest Protection Act of 1995''.

SEC. 302. FINDINGS.

The Congress finds that—

(1) the Palisades Interstate Park Commission was established pursuant to a joint resolution of the 75th Congress approved in 1937 (Public Resolution No. 65; ch. 706; 50 Stat. 719), and chapter 170 of the Laws of 1937 of the State of New York and chapter 148 of the Laws of 1937 of the State of New Jersey;

(2) the Palisades Interstate Park Commission is responsible for the management of 23 parks and historic sites in New York and New Jersey, comprising over 82,000 acres;

(3) over 8,000,000 visitors annually seek outdoor recreational opportunities within the Palisades Park System;

(4) Sterling forest is a biologically diverse open space on the New Jersey border comprising approximately 17,500 acres, and is a highly significant watershed area for the State of New Jersey, providing the source for clean drinking water for 25 percent of the State;

(5) Sterling Forest is an important outdoor recreational asset in the northeastern United States, within the most densely populated metropolitan region in the Nation;

(6) Sterling forest supports a mixture of hardwood forests, wetlands, lakes, glaciated valleys, is strategically located on a wildlife migratory route, and provides important habitat for 27 rare or endangered species;

(7) the protection of Sterling Forest would greatly enhance the Appalachian National Scenic Trail, a portion of which passes through Sterling Forest, and would provide for enhanced recreational opportunities through the protection of lands which are an integral element of the trail and which would protect important trail viewsheds;

(8) stewardship and management costs for units of the Palisades Park System are paid for by the States of New York and New Jersey; thus, the protection of Sterling Forest through the Palisades Interstate Park Commission will involve a minimum of Federal funds;

(9) given the nationally significant watershed, outdoor recreational, and wildlife qualities of Sterling Forest, the demand for open space in the northeastern United States, and the lack of open space in the densely populated tri-state region, there is a clear Federal interest in acquiring the Sterling forest for permanent protection of the watershed, outdoor recreational resources, flora and fauna, and open space; and

(10) such an acquisition would represent a cost effective investment, as compared with the costs that would be incurred to protect drinking water for the region should the Sterling Forest be developed.

SEC. 303. PURPOSES.

The purposes of this Title are—

(1) to establish the Sterling Forest Reserve in the State of New York to protect the significant watershed, wildlife, and recreational resources within the New York-New Jersey highlands region;

(2) to authorize Federal funding, through the Department of the Interior, for a portion of the acquisition costs for the Sterling Forest Reserve;

(3) to direct the Palisades Interstate Park Commission to convey to the Secretary of the Interior certain interests in lands acquired within the Reserve; and

(4) to provide for the management of the Sterling Forest Reserve by the Palisades Interstate Park Commission.

SEC. 304 DEFINITIONS.

In this Title.

(1) COMMISSION.—The term ''Commission'' means the Palisades Interstate Park Commission established pursuant to Public Resolution No. 65 approved August 19, 1937 (ch. 707; 50 Stat. 719).

(2) RESERVE.The term ''Reserve'' means the Sterling Forest Reserve.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 305. ESTABLISHMENT OF THE STERLING FOREST RESERVE.

(A) ESTABLISHMENT.—Upon the certification by the Commission to the Secretary that the Commission has acquired sufficient lands or interests therein to constitute a manageable unit, there is established the Sterling Forest Reserve in the State of New York.

(b) MAP.—

(1) COMPOSITION.—The Reserve shall consist of lands and interests therein acquired by the Commission with the approximately 17,500 acres of lands as generally depicted on the map entitled ''Boundary Map, Sterling Forest Reserve'', numbered SFR–60,001 and dated July 1, 1994.

(2) AVAILABILITY FOR PUBLIC INSPECTION.—The map described in paragraph (1) shall be on file and available for public inspection in the offices of the Commission and the appropriate offices of the National Park Service.

(c) TRANSFER OF FUNDS.—Subject to subjection (d), the Secretary shall transfer to the Commission such funds as are appropriated for the acquisition of lands and interests therein within the Reserve.

(d) CONDITIONS OF FUNDING.—

(1) AGREEMENT BY THE COMMISSION.—Prior to the receipt of any Federal funds authorized by this Act, the Commission shall agree to the following:

(A) CONVEYANCE OF LANDS IN EVENT OF FAILURE TO MANAGE.—If the Commission fails to manage the lands acquired within the Reserve in a manner that is consistent with this title the Commission shall convey fee title to such lands to the United States, and the agreement stated in this subparagraph shall be recorded at the time of purchase of all lands acquired within the Reserve.

(B) CONSENT OF OWNERS.—No lands or interest in land may be acquired with any Federal funds authorized or transferred pursuant to this title except with the consent of the owner of the land or interest in land.

(C) INABILITY TO ACQUIRE LANDS.—If the Commission is unable to acquire all of the lands within the Reserve, to the extent Federal funds are utilized pursuant to this title the Commission shall acquire all or a portion of the lands identified as ''National Park Service Wilderness Easement Lands'' and ''National Park Service Conservation Easement Lands'' on the map described in section 305(b) before proceeding with the acquisition of any other lands within the Reserve.

(D) CONVEYANCE OF EASEMENT.—Within 30 days after acquiring any of the lands identified as ''National Park Service Wilderness Easement Lands'' 29 and ''National Park Service Conservation Easement Lands'' on the map described in section 305(b), the Commission shall convey to the United States—

(i) conservation easements on the lands described as ''National Park Service Wilderness Easement Lands'' on the map described in section 305(b), which easements shall provide that the lands shall be managed to protect their wilderness character; and

(ii) conservation easements on the lands described as ''National Park Service Conservation Easement Lands'' on the max described in section 305(b), which easements shall restrict and limit development and use of the property to that development and use that is—

(I) compatible with the protection of the Appalachian National Scenic Trail; and

(II) consistent with the general management plan prepared pursuant to section 305(b).

(2) MATCHING FUNDS.—Funds may be transferred to the Commission only to the extent that they are matched from funds contributed by non-Federal sources.

SEC. 306. MANAGEMENT OF THE RESERVE.

(a) IN GENERAL.—The Commission shall manage the lands acquired within the Reserve in a manner that is consistent with the Commission's authorities and with the purposes of this title.

(b) GENERAL MANAGEMENT PLAN.—Within 3 years after the date of enactment of this title, the Commission shall prepare a general management plan for the Reserve and submit the plan to the Secretary for approval.

SEC. 307. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this title, to remain available until expended.

(b) LAND ACQUISITION.—Of amounts appropriated pursuant to subsection (a), the Secretary may transfer to the Commission not more than $17,500,000 for the acquisition of lands and interests in land within the Reserve.

Mr. DOLE. Mr. President, I ask unanimous consent the amendment be considered agreed to, the substitute as amended be agreed to, the bill as amended be considered read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 400), as amended, was considered read the third time and passed.

ORDERS FOR MONDAY, JULY 10, 1995

Mr. DOLE. Mr. President, I ask unanimous consent when the Senate reconvenes on Monday, July 10, that following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, time for the two leaders be reserved for their use later in the day; there then be a period for the transaction of morning business not to extend beyond the hour of 1 p.m, with Senators permitted to speak for up to 5 minutes each; further, at the hour of 1 p.m, the Senate resume consideration of S. 343, the regulatory reform bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. Mr. President, for the information of all Senators, at 1 p.m., Senator ABRAHAM will be recognized to offer an amendment to be followed by an amendment to be offered by Senators NUNN and COVERDELL. Votes on these two amendments will occur at 5:15 under a previous order.

Senators should also be on notice that further votes can be expected under the pending regulatory reform bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE RESCISSIONS PACKAGE

Mr. DOLE. Mr. President, with respect to the rescissions package, I regret we were unable to pass that, were unable to complete action on the rescissions package because it was something that had broad support on both sides of the aisle, support by the President.

The President very much wanted to have it done before this Fourth of July recess. As I indicated earlier, the Senator from Minnesota, Senator WELLSTONE, and the Senator from Illinois, Senator CAROL MOSELEY-BRAUN, were within their rights to block action on the bill.

But I must say, as I listened to their statements in which they wished they

could have offered their amendments, they had about 3 hours to offer amendments and used all that time and just had a discussion of the amendments and what was wrong with the bill.

And I am not certain when the rescissions package will be back for a vote. Unless there is an agreement on that side of the aisle I will not bring it back up on the Senate floor. As soon as the President can persuade my Democratic colleagues that this bill is necessary, it is important, and it ought to be passed, and I do not see any reason to take any further time of other Senators because we have a lot of important legislation.

But keep in mind, again this bill which was blocked contains money for the Oklahoma City disaster, it contains money for California earthquakes, it contains money for 39, I think 39, States which suffered disasters, including the States of Illinois, and maybe Minnesota. I am not certain.

So, while the Senators have every right to make their point about certain programs they do not agree with, this rescissions package had been the subject of long discussions, long debate, and even after it passed the Senate and the House, was vetoed by the President; more debate, more discussion by the White House and Democrats and Republicans on each side of the aisle.

So I hope when we come back we will have an agreement that we can take it up immediately, and have an up-or-down vote on the bill itself without amendments.

I would say again there was certainly every opportunity by either the Senator from Illinois or the Senator from Minnesota to offer all the amendments they wanted to offer today. They refused to offer amendments. So I proposed I would offer their amendments. I asked consent to offer their amendments. And they objected.

So I do not want the record to reflect that somehow they were somehow disadvantaged and did not have an opportunity to offer their amendment. That was not the case. They had plenty of time and could have offered the amendments. We could have been finished with that bill by now, and a lot of people around the country would have felt a lot better about it.

So I do not know how they explain it. But that will be their problem.

WELFARE DEBATE

Mr. DOLE. Mr. President, there has been a great deal of speculation in recent days over the prospects for passage of a welfare reform bill. Before departing for the recess, I wanted the opportunity to set the record straight.

Notwithstanding the efforts of some to drive us apart, Republicans are committed to truly ending welfare as we know it. We are not unmindful of the struggles faced by many in this country who need a hand up some time in their lives, or of children who through no fault of their own need the helping hand of the Government. But, Mr. President, we are also not convinced that the Federal Government holds all the answers to the very real problems these people face. In fact, the real story is that notwithstanding the billions of dollars that have been spent over the last decade, the welfare rolls have continued to grow and the number of children at risk has increased. We have all decried these problems and have responded by adding to the list of the things that the States must do. Well, the time has come to listen to the States for a change and give them a chance to devise some solutions that fit their needs.

The issues that divide us are not insurmountable nor are they easily resolved. But the extraordinary thing is that the debate is not over whether we want block grants—it is how best to design them. Our differences are over how to distribute the funds and how much flexibility to give the States in the design of these programs.

The funding issue is a real one and of critical importance to all States. There are States that will experience real population growth that are concerned they will be disadvantaged in this new block grant environment. There are also States that in the past have committed considerable State resources to the program that feel their past contributions should be acknowledged.

No formula fight is ever easy, as every Senator knows. The House and Senate bills create loan funds—but this may not be the perfect answer. We will seek other options to balance the needs of all.

The second group of issues is equally thorny. None of us is unconcerned about the dramatic increase in the numbers of teen pregnancies and the number of children born out-of-wedlock. These are serious issues—not easily addressed. Many of us believe the Governors of our States can and will deal with these problems, as many of them have tried to do. They want us out of the way—that is what they are asking us—not dictating solutions. Others believe that the issue can best be addressed here.

I remain hopeful we can strike some middle ground and am working to that end.

For at the end of the day, we cannot fail. We must not break faith with the American people who sent us a clear message last fall—end welfare as we know it once and for all, require real work, and make it a temporary helping hand, not a lifestyle.

ADJOURNMENT UNTIL MONDAY, JULY 10, 1995

Mr. DOLE. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate now stand in adjournment under the provisions of Senate Concurrent Resolution 20.

There being no objection, the Senate, at 3:58 p.m., adjourned until Monday, July 10, 1995, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate June 29, 1995:

DEPARTMENT OF THE INTERIOR

JOHN RAYMOND GARAMENDI, OF CALIFORNIA, TO BE DEPUTY SECRETARY OF THE INTERIOR, VICE FRANK A. BRACKEN, RESIGNED.

THE JUDICIARY

R. GUY COLE, JR., OF OHIO, TO BE U.S. CIRCUIT JUDGE FOR THE SIXTH CIRCUIT, VICE NATHANIEL R. JONES, RETIRED.

NOMINATIONS

Executive nominations received by the Senate June 30, 1995:

IN THE DEPARTMENT OF DEFENSE

THE FOLLOWING-NAMED OFFICER UNDER THE PROVISIONS OF TITLE 10. UNITED STATES CODE, SECTION 152, FOR REAPPOINTMENT AS CHAIRMAN OF THE JOINT CHIEFS OF STAFF AND REAPPOINTMENT TO THE GRADE OF GENERAL WHILE SERVING IN THAT POSITION UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE.

CHAIRMAN OF THE JOINT CHIEFS OF STAFF

To be general

GEN. JOHN M. SHALIKASHVILI, 000–00–0000, U.S. ARMY.

DEPARTMENT OF STATE

WILLIAM HARRISON COURTNEY, OF WEST VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF GEORGIA.

THE JUDICIARY

BARRY TED MOSKOWITZ, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF CALIFORNIA VICE A NEW POSITION CREATED BY PUBLIC LAW 101–650, APPROVED DECEMBER 1, 1990.

STEPHEN M. ORLOFSKY, OF NEW JERSEY, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY VICE DICKINSON R. DEBEVOISE, RETIRED.

WILLIAM K. SESSIONS III, OF VERMONT, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF VERMONT VICE FRED I. PARKER, ELEVATED.

ORTRIE D. SMITH, OF MISSOURI, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF MISSOURI VICE HOWARD F. SACHS, RETIRED.

DONALD C. POGUE, OF CONNECTICUT, TO BE JUDGE OF THE U.S. COURT OF INTERNATIONAL TRADE VICE JAMES L. WATSON, RETIRED.

DEPARTMENT OF THE TREASURY

HOWARD MONROE SCHLOSS, OF LOUISIANA, TO BE AN ASSISTANT SECRETARY OF THE TREASURY VICE JOAN LOGUE-KINDER.

EXTENSIONS OF REMARKS

INTRODUCTION OF NATIONAL PARK SCENIC OVERFLIGHT CONCESSIONS ACT

HON. DAVID E. SKAGGS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 29, 1995

Mr. SKAGGS. Mr. Speaker, I am today introducing a bill to clarify the authority of the Secretary of the Interior to properly regulate airborne tourism in units of the National Park System.

The bill responds to a growing problem at a number of parks. In particular, I am concerned about current proposals for helicopter sightseeing at Rocky Mountain National Park, in Colorado, which could seriously detract from the enjoyment of other park visitors and also could have serious adverse impacts on the resources and values of the park itself.

While I believe that the National Park Service has both the mission and the authority to properly regulate such overflights, I think Congress should act to remove any doubts about that authority and to make sure that the American people—who own the National Parks—receive an appropriate share of the profits from such operations, through the payment of concession franchise fees. My bill is intended to achieve those goals.

The bill is entitled the ''National Park Scenic Overflights Concessions Act of 1995.'' It is similar to legislation introduced in the 103d Congress by our colleague from Montana, Mr. WILLIAMS.

The bill would amend the 1965 law under which the National Park Service awards and manages concession contracts, to provide that commercial sightseeing flights over National Parks System units could be carried out only by companies who had been awarded a concession contract for such services.

In addition, the bill would require the Secretary of the Interior to develop guidelines for deciding whether or not to award proposed concession contracts for commercial sightseeing flights over National Park System units, taking into consideration the laws, policies, and plans that govern management of the parks and the recommendations of the Federal Aviation Administration [FAA] concerning aircraft safety.

The bill would require the FAA to place greater emphasis on reducing the problem of aircraft noise in parks and to work with the National Park Service to develop better ways of identifying and reporting low-overflight incidents in the parks.

Finally, the bill would require a report from the National Park Service and the FAA on progress made in the next 3 years in mitigating the adverse impact of overflights at National Park System units.

Mr. Speaker, I was very disappointed that comprehensive reform of National Park System concessions was not achieved last year, especially since the House passed a sound, balanced concessions reform bill by an overwhelming vote only to see the measure die in the Senate's end-of-session gridlock. I continue to support comprehensive concession reform, and have cosponsored a concession reform bill introduced by our colleague from Kansas, Mrs. MEYERS. I urge the Resources Committee to either include the provisions of the bill I am introducing today as part of any comprehensive concessions bill they report to the House, or to act promptly on my bill as a free-standing measure.

IN HONOR OF HELEN GARRETT ALDER

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 29, 1995

Mr. STARK. Mr. Speaker, I rise today to recognize the achievements of Ms. Helen Garrett Alder who is retiring after 31 years of dedicated service to the schoolchildren of California's 13th Congressional District.

Ms. Alder was born in Evansville, IN, and completed her undergraduate studies at Tuskegee Institute University in 1949. She earned her master's degree in education from Texas Southern University in Houston, TX. After coming to California, Ms. Alder began teaching in the Oakland Unified School District while continuing her education at Stanford University and the University of California at Berkeley.

She began teaching physical education at Bret Harte Junior High and later moved to Skyline High School where she taught American Government, economics, and social studies. She also coached the girls' basketball and softball teams, was director of the cheerleaders and pesters and served as the department chair of student activities. Ms. Alder also taught driver's education and training and was an instructor at Edward Shands Adult School in Oakland.

Mr. Speaker, I am proud to recognize Ms. Helen Garrett Alder for her commitment to the children of the Oakland Unified School District and am certain that she will be sorely missed. I hope that you and my colleagues will join me in wishing Ms. Alder much happiness and success in her future endeavors.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1996

SPEECH OF

HON. SPENCER BACHUS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 28, 1995

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1868) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes:

Mr. BACHUS. Mr. Chairman, I strongly support the Smith amendment to prohibit use of taxpayer dollars to promote abortion overseas. While not reducing any U.S. funding of legitimate family planning programs, this amendment simply redirects those American dollars to organizations which, like most Americans, believe our tax dollars should never be used to promote abortion as if it were an acceptable method of family planning.

It is not.

We should provide funding only to organizations whose goals are consistent with those of the United States. If they want our money, they should be required to play by our rules.

Since 1993, the Clinton administration has taken every opportunity to promote the proabortion platform at home and around the world. Most Alabamians resent their tax dollars being used, by anyone, to promote abortion on demand. Their hard earned money should not be squandered to provide what is seen by some as an easy way out of an inconvenient pregnancy.

Mr. Chairman, the United States should be a role model for the world—especially when it comes to issues of morality, honest values, and concerns.

This amendment is our opportunity to do just that and to take a small step to stop the insanity of abortion on demand or whim. Support the Smith amendment.

DISMANTLEMENT OF THE ENERGY DEPARTMENT

HON. WAYNE ALLARD

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 29, 1995

Mr. ALLARD. Mr. Speaker, included in the House budget resolution Report 104–120 is a statement by Budget Committee member Earl Pomeroy that the majority party intends to privatize the dismantlement of nuclear weapons, a function presently performed by the Department of Energy [DOE]. This is inaccurate.

The House Republican Energy Department task force recommendation calls for elimination of the DOE over several years. This will save taxpayers billions of dollars and begin the process of downsizing the Federal Government. The task force recommendation includes the creation of an independent civilian agency within the Department of Defense to manage the dismantlement of nuclear weapons and the cleanup of nuclear waste. This independent agency would be called the Defense Nuclear Programs Agency, and there would be consultation with the Environmental Protection Agency on cleanup activities.

POSTMARK PROMPT PAYMENT ACT OF 1995

HON. JOHN M. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 29, 1995

Mr. MCHUGH. Mr. Speaker, we have an opportunity to remedy one of the unfair burdens placed upon the conscientious citizens of this country who pay their bills on time but, who through no fault of their own, are slapped with interest charges because of the delays of others.

Over the years, many of us have been contacted by constituents who have incurred problems with payments they have mailed and were not delivered on time. It has even been suggested that some creditors go as far as to slow down the process as payment due dates approach so as to allow interest charges to accrue. This usually results in late fees and can even affect credit ratings.

Mr. Speaker, if this sounds familiar, it is because this problem is a frequently discussed topic on Talknet, a radio show hosted by Bruce Williams. The focus of Bruce Williams' show is on the life in the real world concerns of his listeners.

Today I am introducing the Postmark Prompt Payment Act of 1995 to correct this inequity by allowing the postmark on the envelope containing the payment to be proof of timely payment. The use of the postmark has precedence in contract law. For example, the Internal Revenue Service uses the postmark on envelopes as proof that taxpayers mailed income tax returns on or before the April 15 deadline, regardless of when the IRS received the payment. If the IRS uses the postmark as proof of timely payment, then why can't the banks or credit card companies?

This legislation would not apply to any other type of payment other than on a blll, invoice or statement of account due and would only apply to payments made through the mail and excludes metered mail. Furthermore, the envelope would have to be correctly addressed to the payee and have adequate postage affixed to it.

Mr. Speaker, this legislation has 20 original cosponsors. I believe everyone who values their good credit will benefit from this legislation. Let's show the American people our resolve to remedy the payment due problem.

FALCONS THREEPEAT

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 29, 1995

Mrs. MORELLA. Mr. Speaker, on June 4, the Montgomery Soccer Inc. Falcons U-12 girls team won its third consecutive Maryland State Cup championship, defeating the Soccer Club of Baltimore Flames, 2–1. The win qualifies the Falcons to represent Maryland in the Eastern Regional Championship Tournament in Niagara Falls this weekend. The win was especially meaningful for the Falcon players and their parents and for coach Harry Martens and assistant coach Chrissie Gardner, as the game was dedicated to the memory of E Soo Kim, father of goalie Chris Kim.

Forward Laura Hur recorded the first goal of the game, with an assist by Lane Fogarty, who had an outstanding day and was voted game MVP by tournament officials. The Falcons mid fielders and defenders, Beth Hendricks, Christie Bird, Audra Poulin, Carrie Smith, Amy Salomon, Lindsey Henderson, Caitlin Curtis, Kerry Fleisher, Alexis Byrd, Tara Quinn and Megan Corey held the Flames to just three shots and no goals during the first half. The Falcons' forwards, Fogarty, Hur, Jenny Potter and Kim Sperling, kept the pressure on the Flames. Forward Jeanie Bowers was injured, but hoped to be ready for the Eastern Regionals. The Falcons reached the finals of the State Cup by winning all four of their State Cup Round Robin Tournament matches, outscoring their opponents, 23–0.

Congratulations to the Falcons and best wishes for success in the Eastern Tournament.

SALUTING LT. CLAUDIA J. CAMP, USCG

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 29, 1995

Mr. FIELDS of Texas. Mr. Speaker, earlier this month, U.S. Coast Guard Lt. Claudia J. Camp left her position as the Coast Guard's assistant liaison officer to the House of Representatives, and I wanted to take a moment to publicly thank her for the assistance she lent to my office and staff, and for the assistance she provided to this institution and all its members.

I worked with Claudia closely from 1993 to 1995, when I served as the ranking Republican member of the House Merchant Marine and Fisheries Committee. During those years, she and her fellow Coast Guard liaison officers repeatedly went out of their way to be helpful to those of us on the Merchant Marine and Fisheries Committee. Their assistance and advice helped those of us responsible for overseeing the Coast Guard's operations to better understand the needs of the men and women in the Coast Guard as they worked to carry out their many diverse missions.

Claudia graduated from the University of California at Los Angeles in 1982, after which she entered—and graduated from—the Coast Guard's training center in Cape May, NJ. She graduated, I might add, first in her class of 120 men and women, and as the recipient of the Female Leadership Award and the Marlinspike Seamanship Award.

Following her graduation, Claudia served as a boatswain's mate aboard the Coast Guard's tall ship USCGC *Eagle*. She participated in a bicentennial voyage from the United States to Australia and back. Following her time aboard the USCG *Eagle*, Claudia served as a petty officer at the Coast Guard Station Fort Point, in San Francisco. In her position as a coxswain on a 44-foot motor life boat, Claudia regularly participated in search and rescue missions in the San Francisco Bay area, which is so infamous for its treacherous currents.

Next, Claudia attended Officer Candidate School in Yorktown, VA, graduating in the top quarter of her class in December 1990. Following her graduation, Claudia was assigned to the USCGC *Steadfast*, based in St. Petersburg, FL. Aboard the *Steadfast,* Claudia served as a deck watch officer responsible for conning and navigation. Later, she served as the 1st lieutenant and as a maritime law enforcement boarding officer. She continued her drug interdiction and maritime safety work as an executive officer on board the USCGC *Metompkin,* based in Charleston, SC. In that post, she conducted numerous fisheries boardings and drug inspections.

It was from the *Metompkin* that Claudia came to Capitol Hill. I know that Claudia loves the Coast Guard, and she's participated in many of the Coast Guard's diverse missions. While answering congressional inquiries; assisting in the preparation of congressional testimony; serving as a White House social aide; explaining the Coast Guard's mission and its needs to congressional staffers and Members of Congress; planning and participating in congressional delegation visits to various Coast Guard units; and escorting the Coast Guard commandant, the vice commandant and various admirals to appointments on Capitol Hill is not quite as exciting as rescuing a vessel in distress, or boarding a vessel suspected of hauling illegal drugs, Claudia handled her duties here on Capitol Hill in the same professional, courteous and knowledgeable manner that has characterized her service throughout her years in the Coast Guard.

Mr. Speaker, I have often expressed my admiration for the men and women of the U.S. Coast Guard—and the dedication to service and to excellence with which they approach their duties. Lt. Claudia J. Camp is one such Coast Guard officer, and I appreciate this opportunity to thank her for the assistance she has provided to us on Capitol Hill, and to wish her well in her new assignment as captain of the USCGC *Matagorda,* a 110-foot patrol boat in Miami. All of us owe her, and the Coast Guard, our admiration and thanks.

Thank you, Mr. Speaker.

IN RECOGNITION OF KATHLEEN HILL BECKNELL

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 29, 1995

Mr. HALL of Texas. Mr. Speaker, I rise today to pay tribute to a living legend from Emory, TX—Kathleen Hill Becknell, who at the age of 88 remains the active editor and publisher of The Rains County Leader. Kathleen—''Kat'' as she is know to her friends—has managed the weekly newspaper since 1963 and recently was honored during the Founders Day ceremony in Emory, which I had the privilege of attending. The Texas State Senate also recognized Kathleen's contributions to the county through a resolution introduced by State Senator David Cain, who also attended the ceremony.

The Rains County Leader is the oldest business in Rains County. It began publication as the Argus/Record in 1896, and in 1909 Kathleen's father, Tom Hill, became the editor and owner, a position he held until his death in 1937. His son, Earl Clyde Hill, took over operations until his death in 1960, at which time Earl Clyde Hill Jr. assumed the job. In 1963 Kathleen became the editor and publisher.

The Leader, like other weekly county newspapers throughout America, continues to thrive because of its emphasis on local news and local people. Kathleen's weekly column, ''You Might Doubt It!,'' is a popular feature with subscribers and reflects the author's wit and personality.

Kathleen's contributions to Rains County extend over her lifetime and beyond her leadership at the newspaper. Born in Emory and educated in the public schools there, Kathleen was chairperson for the Red Cross in the 1930's. During World War II, she was Emory's chairperson for the war bond drive. She is a charter member of the Fidelis Sunday School Class of Emory Baptist Church and is the church's longest member, having joined in 1919. She is a charter member of the Point Ladies Civic Club, Emory's Women's Service Club and the Rains Garden Club. She was president of the Texas Women's Press District 12 in the 1960s.

Kathleen was married to Bo Gunter, who died in 1956, and then was married to George Becknell in 1960, who died in 1980. When Kathleen became editor of the Leader, George began street sales of the newspaper in surrounding towns, resulting in over 1,000 papers now being sold on the streets of Point, East Tawakoni, Emory, Lone Oak and Alba.

Mr. Speaker, people like Kathleen Becknell represent the heart and soul of small-town America. She has devoted a lifetime to her town and county. Born and raised there, she chose to reside there all her life, and her loyalty and devotion to the people of Rains County are evidenced each week in the pages of The Rains County Leader.

As we adjourn today, Mr. Speaker, let us pay tribute to Kathleen Hill Becknell of Emory, TX, for a job well done and a life well lived. May she enjoy many more years as a community leader, newspaper editor, and legendary citizen of Rains County.

CONSUMER AUTO-TAX RELIEF ACT OF 1995

HON. SHERROD BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 29, 1995

Mr. BROWN of Ohio. Mr. Speaker, I rise today to introduce legislation that will offer support to one of America's most important industries. As American car-makers face unfair competition abroad, the Consumer Auto-tax Relief Act of 1995, will give a valuable shot in the arm to the domestic auto market.

Yesterday, in a dangerous game of brinkmanship, the administration and Japanese negotiators only narrowly averted an all out trade war. While I applaud the administration for taking a tough trade position with the Japanese and appreciate the promise of more accessible Japanese markets, this strategy only addresses part of the problem I want to solve. The C.A.R. Act of 1995 carefully crafts language that benefits an entire spectrum of interests. The C.A.R. Act offers us tax relief for middle-class families, support for our domestic auto industry, and a chance for a cleaner environment. By supporting this bill, we can stand up for American consumers, American business, and American workers.

The C.A.R. Act is simple. It restores the deductibility of interest on loans for any car under $35,000 with at least 60 percent domestic content, according to the standards established in the American Automobile Labeling Act of 1993.

Besides the obvious benefit to American car manufacturers, the C.A.R. Act benefits taxpayers by offering much needed tax relief. This Congress we have heard a lot about the benefits of tax relief, but rarely have we offered measures that benefit both business and middle-class interests. The C.A.R. Act offers us a chance to offer real relief, to real people and help the business community in a truly positive way.

In 1994, the average interest payments on a new car amounted to $1,574 annually. Restoring the deductibility of these payments would make automobiles more affordable to people who depend on automobiles for transportation. Americans have a unique driving culture in that we use our cars for everything from going to work to going on vacation. Parents take their children to after school activities, students drive to school, families take road trips and employees get to work—all in their cars. The fact is, most families need a car to do even routine chores like shopping for groceries. By offering this deduction, the C.A.R. Act makes this necessary mode of transportation more accessible to everyone. This is truly a progressive tax break.

In addition to making American cars more accessible to everyone, the C.A.R. Act gets older cars off our roads and gives us cleaner air. As consumers take advantage of the benefits of the C.A.R. Act, older cars will be replaced with newer, cleaner burning, and more fuel efficient models that will go a long way in preserving the quality of our air. Again, the C.A.R. Act is a common sense move, not only for American jobs, industry and taxpayers, but also for our environment.

The C.A.R. Act does still more. By defining an American car by content level, the C.A.R. Act also encourages foreign owned manufacturers to purchase American made parts. Currently, most foreign cars built in the United States and Canada have approximately a 48-percent American content. In response to this initiative, foreign companies that build in the United States and Canada may choose to purchase more American made parts to allow their cars to qualify for the deduction. This represents just another benefit to America's auto industry.

The U.S. Trade Representative tells us that fully one-third of all autos sold in the U.S. domestic market are foreign. Until we see corrective action to improve our trade imbalance with Japan, we must support the C.A.R. Act and other measures like it to show American auto industry workers, manufacturers, and consumers that we appreciate their efforts and care about the work they do. In my hometown of Lorain, OH, 3,800 people at the Lorain Ford auto plant(s) depend on me to do everything I can to protect American jobs, markets, and industry. The C.A.R. Act gives us all the chance to do just that.

Finally, I would like to acknowledge Ford, Chrysler, General Motors and the American Automobile Manufacturers Association for responding to my calls for assistance with creating an incentive not only to buy American cars, but also to support middle-class families. Their assistance was invaluable, and I appreciate their input. They understand, as I do, that the C.A.R. Act represents an opportunity for American industry, American workers and middle-class taxpayers. It means more jobs, greater production and a boost to our economy.

The auto industry is the cornerstone of the American industrial base, and it deserves our support. In 1994 alone, America's car companies contributed almost 11 percent to the growth in the U.S. gross domestic product and directly employed 2.3 million workers. Encourage consumers to buy American cars and show your support for our domestic industry by co-sponsoring C.A.R. Act of 1995. Give American consumers a break and show the world we mean business.

Thank you.

SECURITIZATION ENHANCEMENT ACT OF 1995

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 29, 1995

Mr. SHAW. Mr. Speaker, today I, along with Congressman RANGEL, am introducing the Securitization Enhancement Act of 1995. We are privileged to be joined by Representatives ZIMMER, MCDERMOTT, PAYNE, KENNELLY, CARDIN, ENGLISH, SAM JOHNSON, HANCOCK, CHRISTENSEN, NEAL, CRANE, THOMAS, COLLINS, KLECZKA, DUNN, HOUGHTON, MATSUI, NANCY JOHNSON, HERGER, NUSSLE and PORTMAN in introducing this important legislation that will assist small business in gaining access to capital and promote safety and soundness in the Nation's banking system. It will do so by simplifying the tax rules governing the securitization of asset-backed securities in a user-friendly fashion.

We also have an additional piece of good news. Whenever the Congress considers tax legislation, one of the first questions asked is how much will this cost. Fortunately, this legislation is revenue neutral and will not add to our budget deficit. Indeed, the bill actually raises $87 million over 5 years, $92 million over ten, without raising any taxes.

This bill builds upon the success of legislation enacted by Congress in 1986—the Real Estate Mortgage Investment Conduit [REMIC] provisions of the Tax Reform Act of 1986—which specified the tax rules for securitizing home mortgages.

The legislation creates a new tax vehicle similar to a REMIC known as a Financial Securitization Investment Trust [FASIT]. Unlike REMIC, which applies only to home mortgages, FASIT is available to all forms of debt, including small business, consumer, student and auto loans, among others. Our experience with REMIC suggests that facilitating securitization for such loans will greatly expand credit availability.

The Benefits of Securitization.—Securitization is the process whereby banks and other lenders package relatively illiquid loans and turn them into highly liquid marketable securities that relay for their creditworthiness solely on the underlying loans or on other guarantees provided by the private sector. Assistant Secretary of the Treasury Richard Carnell has described the securitization process as follows:

By ''securitization,'' I mean the process of transforming financial assets, such as loans,

into securities that in turn convert into cash over time. One converts loans into securities by assembling a pool of loans and selling them to a special-purpose entity, often a trust. That entity then issues securities representing a debt or equity interest in the loan pool. The cash flow generated by the loans finances payments on the securities. (Statement of the Honorable Richard S. Carnell, Assistant Secretary for Financial Institutions, United States Department of the Treasury, on the Administration's Views on the Loan Securitization Provisions of the Community Development, Credit Enhancement, and Regulatory Improvement Act of 1994, Subcommittee of Telecommunications and Finance, Committee on Energy and Commerce, United States House of Representatives, June 14, 1994 at 1.)

The advantages of securitization are several:

First, because securitization increases the amount of information investors have about the risks involved in holding a pool of loans, investors become more comfortable with those risks and more willing to invest in the pool.

Second, securitization makes it possible to segment the different categories or types of economic risk associated with a pool of loans. As a result, it is often possible to make a better match between various risks and the investors that are most knowledgeable about undertaking those risks.

Third, by converting a pool of loans into a marketable security—even if that security is retained by the original lender—the loans become more liquid and therefore more valuable. Liquidity also makes for safer and sounder financial markets.

Fourth, by increasing information, risk segmentation, and liquidity, securitization makes it easier for lenders and investors to achieve appropriate diversification of their portfolios. Diversification can also help prevent a localized economic problem—such as a sudden change in the price of energy, real estate, or other commodities crucial to a local economy—from dragging down all of an area's local financial institutions and potentially causing serious regional or national financial problems.

Avoiding Future Credit Crunches.—We all remember the credit crunch of the late eighties and early nineties that so hurt small businesses throughout the country. While this problem has receded somewhat, it remains a serious one. However, while small business was finding credit hard to come by, home buyers experienced unprecedented credit availability during this same period. For example, in 1986 the total size of the home mortgage market was approximately $2.5 trillion, with about $500 billion in home mortgages being securitized or sold in the secondary market. Six years later, in 1992, the size of the home mortgage market had grown to $4 trillion, over half of which was securitized. Virtually 100 percent of all fixed rate home mortgages are now sold in the secondary market.

Since 1986, the total supply of home mortgage money has been steadily increasing, even though the portion supplied without reliance on securitization has been declining both as a percentage, and, most recently, as an absolute amount. Clearly, without securitization we would not have had the large increase in credit availability in the home mortgage market that occurred since 1986.

REMIC may well be the most successful and perhaps the least known success emanating from the Tax Reform Act of 1986. Simply put, REMIC prevented the credit crunch from infecting the home mortgage market, to the everlasting benefit of millions of homeowners throughout the country.

FASITs and Small Business.—FASITs can do for other forms of debt, particularly small business loans, what REMIC accomplished for home mortgages. Securitization of other forms of non-mortgage debt is virtually in its infancy. In 1992 only about $120 billion in non-mortgage debt was securitized. Most of the debt involved revolving credit and auto loans. We know from experience with REMIC that there is almost a one-to-one ratio for increased securitization and increased credit availability.

There is every reason to believe that the economic and business benefits of securitization will be seized upon by lenders and borrowers alike in these other areas. As the administration has pointed out, ''[s]ecuritization benefits borrowers by making credit cheaper and more readily available. . . . Securitization could help make small businesses less susceptible to problems in the banking system insofar as it gives those businesses access to national and international credit markets, through banks or other financial institutions.'' (Carnell statement, supra at 2–3.)

Last year Congress enacted the Community Development, Credit Enhancement, and Regulatory Improvement Act of 1994. That legislation made a number of changes in the securities laws intended to facilitate securitization of small business loans. When that legislation was introduced a provision was included authorizing Treasury to issue regulations regarding the tax rules for such securitizations. This provision was dropped, but the need for clear tax rules to guide small business and other nonmortgage securitizations remains.

FASIT completes the unfinished business of the Community Development Bank Act. As the Administration noted in its 1994 testimony:

We believe that securitization has the potential to increase lending to small businesses. Offering loan originators the opportunity to sell pools of small business loans to investors should help free up resources that can be used to make more such loans. By making small business loans more liquid, securitization should make them more attractive to originate and to hold. Securitization should also bring new sources of funds to small- and medium-sized business lending by enabling investors who do not lend directly to small businesses—such as pension funds, insurance companies, trust departments, and other institutional investors—to invest in small business loans made by other financial institutions, including banks that are effective originators of such loans but that may not want to hold all loans originated on their balance sheets. (Carnell statement, supra at 6–7.)

The administration further stated that:

[S]ecuritization should reduce the cost of borrowing for small businesses. Small business borrowers pay higher interest rates for credit in part because their loans are illiquid. If an active secondary market for small business loans existed, interest rates in that marked would influence rates in the loan origination market. If rates and yields were high in the securitized loan market, banks and other loan originators would be eager to have more loans to sell. They would signal this interest to borrowers by slightly lowering their interest rates to them, inviting borrowers to seek more credit or permitting previously marginal borrowers to afford credit. (Carnell statement, supra at 7.)

FASIT's and Safety and Soundness Concerns.—Although facilitating asset securitizations will, as the SEC noted, help small business gain access to needed capital, this legislation will also be of direct benefit to the taxpayer. We need only look back to the recent thrift crisis to see the tremendous costs to the taxpayer that can come about as a result of Federal deposit insurance.

Had REMIC or FASIT been in place in the late seventies, it is unlikely that the taxpayer would ever have had to bail out thrift depositors. In the last seventies, thrifts found themselves holding low interest rate mortgages at a time when their cost of funds was skyrocketing. To counteract these financial pressures, thrifts sought additional powers to engage in potentially more profitable, but also more risky activities. When these efforts proved to be unsuccessful, many thrifts failed, and the taxpayer had to finance a bailout costing billions.

Simply put, if banks can sell off their loans to the secondary market, the risk that the loans may possibly default is assumed by the capital markets rather than the taxpayer through the deposit insurance system. Had thrifts been able to sell off their low interest rate mortgages in the seventies, the mismatch between their earnings and cost of funds would have been avoided, and the taxpayer spared much later expense. FASIT, by facilitating securitization of non-mortgage debt, will allow for a much safer and sounder banking industry, and, at the same time, reduce the potential exposure now borne by the taxpayer in the event that such loans go bad.

The Tax Treatment of Asset Securitization.—In many ways the FASIT legislation is the tax code counterpart to the SEC's actions to promote asset securitization. Like the SEC's actions, FASIT would eliminate much of the disparity in tax treatment between certain selected classes or types of assets, which are currently allowed to obtain direct access to the capital markets through statutorily sanctioned vehicles, and other types or classes of assets which do not yet enjoy that treatment under the tax law. FASIT accomplishes this through a generic rule, like the SEC's approach, which allows all types of loans to be securitized as long as appropriate structural limitations and safeguards are in place.

By moving to a generic approach, FASIT represents a first step towards rationalizing the various pass-through vehicles that now exist in the Internal Revenue Code, including REMICs, REITs, RICs, and the like. Once the market becomes familiar with FASIT, it may well be possible, eventually, to do all forms of securitizations under the FASIT umbrella. However, given the already large markets that exist in these other areas such as REMIC, we believe it would be far preferable and much less disruptive to move gradually rather than precipitously to a one size fits all model.

Current Law Tax Treatment of Asset Securitization.—To understand exactly what FASIT does, and why it is beneficial, it is necessary to understand a little about the way asset securitizations are structured under current tax law.

Securitization of loans depends on the ability to pass through to investors all or a significant portion of the interest income that is earned on a pool of loans without the imposition of an intervening corporate tax. As a tax matter, this is essentially what occurs when a

bank makes loans with funds that it has obtained from deposits or other borrowings. Corporate taxes are paid by the bank only on the portion of the interest income received that is not paid out as interest to its depositors or other creditors.

Traditional securitizations typically involve the use of a special purpose financing vehicle as the holder of the loans, and issue debt securities instead of raising funds from bank deposits, but the tax principle is the same. That is, assuming that the financing vehicle is a corporation, corporate taxes are paid only on the portion of the interest income received that is not paid out to the holders of debt instruments issued by the entity. As a result, the key tax issue is determining how best to structure the transaction so that the securities qualify as debt, rather than as an ownership interest in the special purpose entity.

With REMICs, or similar entities structured under the tax law as fixed investment trusts of partnerships, the task of securitizing loans becomes much easier because 100 percent of the income paid out to investors is passed through without the imposition of an intervening corporate tax. This complete pass-through treatment is available regardless of whether the securities are classified as debt or as equity. Thus, the problem of determining how best to structure a security so that it satisfies the business objectives of the parties and still qualifies as debt for tax purposes is eliminated.

FASITs and Asset Securitization.—Like the REMIC provisions before it, the FASIT legislation will help make loan securitization easier by creating a new pass-through structure specifically designed for loan securitization. Unlike REMICs, FASITs will be available for all types of loans or other instruments treated as debt for Federal income tax purposes.

Although the FASIT itself will not be subject to any tax, its net income will be included in the United States income tax return of its owner or owners, and thus will, in virtually all cases, be subject to corporate income tax. The only exception is a provision intended to facilitate small business loan securitizations, which allows businesses operated as partnerships or S corporations to retain ownership of FASITs used to securitize loans to their customers, such as trade receivables.

Loans will be transferred or sold to the FASIT so that it can issue securities backed by loans it has acquired. As with REMICs, FASITs will be permitted to issue securities that qualify as debt of the FASIT for Federal income tax purposes even though they are issued in non-debt form for State law purposes. This latter point reflects the fact that the assets of the FASIT are the sole source of payments on the securities, and that any risk of loss on the assets that is borne by the owners of the FASIT has been limited to a reasonably estimable amount. At the same time, treating such certificates as debt of the FASIT for tax purposes means that the portion of FASIT income passed through to the holders of the certificates is not included in the FASIT income that is passed through to the corporate owners of the FASIT.

The FASIT legislation makes the rules for qualifying securities as debt, based upon their economic substance, clearer and more straightforward. In so ding, FASIT makes the tax rules governing the most advanced type of securitization structures more accessible to a wider variety of issuers and their tax counsel, thus creating a more liquid and more efficient marketplace.

In addition to making the applicable legal rules and standards more accessible, FASIT will also ease some of the common law rules that are generally perceived as governing these types of transactions.

Under current case law, securities purporting to qualify as debt for tax purposes generally must have a high investment grade rating of ''A'' or better. Under the FASIT legislation, debt securities can be issued as long as they do not have a yield that is more than 5 percentage points higher than the yield on Treasury obligations with a comparable maturity, which will permit more subordinated debt securities to be issued. Even debt securities at the top end of that yield limitation are still fundamentally debtlike, as the 5 percentage point standard is borrowed from current tax law rules governing when certain high yield discount bonds will be subject to special rules deferring accrued interest deductions. (See, section 163(e)(5), Internal Revenue Code of 1986.) These rules effectively assume that obligations yielding 5 points more than Treasury bonds could and do qualify as debt. Thus, FASIT legislation will not be authorizing the issuance of debt securities that are fundamentally different from debt securities that are currently outstanding in the markets.

The yield limitation, which limits how much income can be passed through to the holders of FASIT debt instruments, is important because all remaining income—the income associated with the true equity like risk of investing in a pool of loans—will be taxable to the U.S. banks or other U.S. corporations that retain or acquire the ownership interests of the FASIT.

Securitization has been driven by economic, not tax considerations. Consequently, we have exercised great care to ensure that this legislation contains no loopholes or gimmicks. Strong antiabuse provisions are also included to prevent any gamesmanship.

Not only is this legislation devoid of any loopholes, it actually raises $92 million over 10 years. When a loan or an asset is transferred by the bank to the FASIT, there is an immediate recognition of gain. For example, assume that a loan will generate $10 of income each year over a 10-year period. When the loan is transferred to the FASIT, the present value of the entire $100 of income generated by the loan is recognized. In effect, this phenomenon is identical to an acceleration of estimated taxes, and the result is that the revenues lost by relieving the burden of the corporate level tax on the entity level is more than offset.

Mr. Speaker, this FASIT legislation promises to be a great benefit to the Nation's small businesses, which often have difficulty gaining access to needed capital. We have seen the tremendous success of REMIC in developing a secondary market for home mortgages. If FASIT is even half as successful as REMIC, we will have enacted the most important legislation in history for small business.

In addition to helping small business and others gain access to capital, this legislation protects the taxpayer from being forced to finance possible future bailouts for the banking industry. This legislation will promote safety and soundness of the banking system and spread the risks of loans throughout the capital markets rather than allowing them to be concentrated in one area, with the Federal Government the ultimate guarantor.

This legislation also simplifies the tax rules governing securitization of asset-backed securities and creates a single vehicle available for all forms of non-mortgage debt and, eventually, FASITs may even supplant REMICs as the vehicle of choice for all securitizations.

Finally, unlike many worthy tax measures which seem beyond our grasp because of budgetary constraints, this legislation actually raises money without raising taxes.

I am proud to have introduced this fine piece of legislation, and I urge my colleagues to join with me to see that FASIT is enacted in 1995.

GEN. COLIN POWELL—REMARKS ON THE U.S.-FLAG MERCHANT MARINE

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. SOLOMON. Mr. Speaker, a strong Merchant Marine Fleet is vital to our national defense and economy. Without a strong fleet, the United States would become dependent on foreign ships, thus endangering its ability to respond to crisis situations overseas.

On June 15, 1992, Gen. Colin Powell, Chairman of the Joint Chiefs of Staff, delivered the commencement address to the U.S. Merchant Marine Academy. In his remarks, General Powell talked about the strategic importance of the U.S.-flag merchant marine and American merchant mariners. His statements clearly rebut the comments made in the Wall Street Journal and by other critics demeaning both the role played by the merchant marine during the Persian Gulf war and the need to maintain a strong maritime industry to meet future national defense needs. General Powell said the following:

Since I became Chairman of the Joint Chiefs of Staff, I have come to appreciate first hand why our merchant marine has long been called the nation's fourth arm of defense.

The American seafarer provides an essential service to the well-being of the nation, as was demonstrated so clearly during Operations Desert Shield and Desert Storm. Merchant Marines . . . worked side-by-side with soldiers, sailors, airmen, Marines and Coast Guardsmen to get the job done that needed to be done. . .

Fifty years ago today, U.S. merchant vessels operated by your forbears were battling the frigid seas of the North Atlantic to provide the lifeline to our allies in Europe. The sacrifice of those mariners was essential to keeping us in the war until we could go on the offensive. . . In World War II, enemy attacks sank more than 700 U.S. flag vessels and claimed the lives of more than 6,000 civilian seafarers. . .

For too many years, the pivotal contribution of the merchant marine to our victory in World War II has been overlooked. But now the situation has begun to be rectified. America is eternally grateful to all those who served in our merchant marine over the years for their efforts, their commitment and their sacrifice in defense of our beloved America. They are second to none. . .

Sealift was the workhorse of our deployment and sustainment operations. Ninety-Five percent of all equipment and supplies

reached the Persian Gulf by ship. . . We also activated the Ready Reserve Force for the first time. By late February, there were some 500 merchant marines employed by the Military Sealift Command serving in the Gulf on the high seas. . .

The war in the Persian Gulf is over, but the merchant marine's contribution to our nation continues. In war, merchant seamen have long served with valor and distinction by carrying critical supplies and equipment to our troops in far away lands. In peacetime, the merchant marine has another vital role—contributing to our economic security by linking us to our trading partners around the world and providing the foundation for our ocean commerce.

The United States today remains the world's leader, with global interests and responsibilities. We are a maritime nation. Our strategy demands that we have access to foreign markets, to energy, to mineral resources, and to the oceans. We must be able to project power across the seas.

This means that not only do we need a strong Navy, but a strong maritime industry as well. For, as the brilliant naval strategist Alfred Thayer Mahan once wrote, ''Sea power in the broad sense . . . includes not only the military strength afloat, that rules the seas or any part of it by force of arms, but also the peaceful commerce and shipping from which a military fleet naturally and healthfully springs, and on which it securely rests.'' . . .

Our strategy requires us to be able to project power quickly and effectively across the oceans to deal with the crisis we couldn't avoid or protect. Sealift will be critical to fulfilling this strategic requirement. We learned a lot of valuable lessons from our lift operations in support of Desert Shield/Desert Storm. Many of these were incorporated into our new Mobility Requirements Plan—a blueprint for what we believe is needed to fulfill our armed forces' lift requirements in support of our new strategy. . . The plan also acknowledges that the merchant marine and our maritime industry will be vital to our national security for many years to come. . .

The key to investment, the one that really matters, is our investment in quality people. . . Few occupations require the high standards U.S. seamen must meet and the demonstrated skills they must acquire to pursue their career. It is your skills and those of your buddies in the Armed Forces that will help America maintain its position of leadership in the world.

I am here to tell you that we still need you. Do not let anyone suggest to you otherwise.

Mr. Speaker, General Powell was right when he said that America needs a strong merchant marine fleet to maintain our position as a world leader on the oceans. I urge every Member of this House to work toward strengthening our merchant marine fleet.

TRIBUTE TO GERALDINE GEORGE-FOUSHEE

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. PAYNE of New Jersey. Mr. Speaker, I rise today to join my constituents in paying tribute to a longtime friend and a dedicated public servant, Mrs. Geraldine George-Foushee. Gigi, as we all know her, has dedicated her professional life to law enforcement and service to her community. A Newark resident who graduated from Newark's public schools, she went on to earn a masters degree in social work. Gigi served her community as a police officer with the Newark Police Department and later as a detective in the Essex County Sheriff's Office.

Gigi Foushee was the first African-American woman to serve as deputy mayor for the city of Newark and the first to serve as executive director of Newark's Alcohol Beverage Control Board. In 1991, Gigi achieved another first, she became the first African-American woman in New Jersey's history to be appointed warden of the Essex County Jail, the largest jail in New Jersey.

She was recently appointed by Chief Justice Robert N. Wilentz, of the New Jersey Supreme Court, to serve as a member of the New Jersey Supreme Court Task Force on Minority Concerns. Gigi continues to participate in numerous committees and task forces which are committed to addressing the concerns of the people of this community. As a result of her activities and accomplishments, she has received numerous community and law enforcement awards.

Gigi Foushee is a mother, a wife, and an excellent role model for our young people. Her service to this community will always be appreciated and remembered. She is an inspiration to us all. Mr. Speaker, I ask that all of my colleagues join with me in recognition of a truly extraordinary woman, Mrs. Geraldine ''Gigi'' Foushee.

AMTRAK NEEDS LABOR REFORM

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. SHUSTER. Mr. Speaker, I commend to my colleagues the following editorial, which appeared in the Altoona Mirror, a newspaper in my 9th Congressional District of Pennsylvania. Concise and to the point, the piece describes why, without significant and immediate labor reforms, Amtrak may well find itself without any Federal funding this year. This editorial is a solid enunciation of the issue and I commend it to my colleagues and anyone else interested in the future of Amtrak.

AMTRAK NEEDS LABOR REFORMS

The freedom to make good business decisions, not government subsidies, offers Amtrak the best chance at long-term survival.

Despite Sen. Arlen Specter's words of support for Amtrak in Altoona, the nation's passenger railroad could derail without the reforms being supported by U.S. Rep. Bud Shuster. Those reforms would reduce Amtrak's overgenerous severance package and allow the railroad to contract out for non-food services, such as equipment repair.

Amtrak has an absurd severance package under which workers are eligible for each year they work, up to a total of six years, if they are laid off or moved more than 30 miles from their current job assignment.

This means Amtrak wants to abandon an unprofitable line, it may wind up paying employees for six years even though they are not working.

A bill backed by Shuster would reduce the maximum severance package to six months.

The other major reform would allow Amtrak to contract out work, other than food service. Currently the passenger railroad is prohibited by hiring outside contractors if it would affect a member of the bargaining unit.

Amtrak's repair facilities need to be upgraded at a cost of hundreds of millions of dollars. The General Accounting Office estimates $260 million is needed for Amtrak's primary maintenance shops in Beach Grove, IN.

This is money that Amtrak doesn't have and the Federal government does not need to spend. The nation's freight railroads, such as Conrail, have the capacity to do some of Amtrak's repairs on a contract basis.

Why should American taxpayers be forced to fork over $260 million to complete a major upgrade at just one of Amtrak's repair facilities when private companies should do their work?

Unfortunately, not everyone sees the need for immediate changes.

Shuster last week stopped discussion on the reform legislation after 38 members of the committee moved to give Amtrak and its unions 270 days to negotiate new contract provisions.

This would just continue to drag Amtrak's problems out. If Amtrak and its unions can not reach an agreement in 270 days, then President Clinton would appoint a Presidential Emergency Board, which would have 60 days to review the matter. Then the dispute would go to 'Clinton. He can take whatever time is needed, possibly years, before making a decision.

Amtrak may not have that long. The passenger railroad's federal funding is $993 million for the current fiscal year. The House Appropriations Subcommittee on Transportation has cut the amount to $728 million for the next year and made the money contingent on passage of legislation offering significant labor reforms.

Without changes, Amtrak could find itself without any federal money, which would virtually kill the passenger rail service and undermine the unemployment and retirement systems for all railroad employees. This could be disastrous.

We agree that the United States needs a passenger railroad, but the only way to guarantee that is to free Amtrak of the shackles that keep it from making the best business decisions. That's what the legislation supported by Shuster does and why is should be enacted.

INTRODUCTION OF THE EFFICIENT FLEET MANAGEMENT ACT OF 1995

HON. BOB FRANKS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. FRANKS of New Jersey. Mr. Speaker, spread throughout Washington, DC., and roaming in all corners of our country are more than 250,000 cars and trucks that make up the civilian Federal motor fleet. Last year, the GAO reported that only the IRS was in compliance with existing law which requires agencies to take advantage of the most cost-effective fleet management practices available.

Today, I am introducing a bill to require the Office of Management and Budget to supervise the awarding of competitive contracts in acquiring and operating the Federal fleets. This bill will save taxpayers at least $1 billion over 5 years.

Mr. Speaker, this Congress must demand that Federal agencies account for all the costs

of their fleets and be held accountable to minimize those costs. I urge all of my colleagues to join me in supporting this legislation.

PERSONAL EXPLANATION

SPEECH OF

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 29, 1995

Ms. HARMAN. Mr. Speaker, I was unavoidably detained and missed rollcall vote Nos. 445 and 446 on H.R. 1868.

Had I been present, I would have voted ''aye'' on rollcall No. 445, and ''no'' on rollcall No. 446.

PERSONAL EXPLANATION OF VOTE ON HOYER AMENDMENT ON H.R. 1561

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. CLINGER. Mr. Speaker, on June 8, I voted ''No'' on rollcall No. 362, an amendment offered by Mr. HOYER to the American Overseas Interests Act of 1995. Mr. HOYER's amendment declares that the United States supports the efforts of the Government of the Republic of Bosnia and Herzegovina to defend itself against aggression, and directs the President to lift the arms embargo against the Bosnian government. As you recall, the amendment passed 318–99.

Like my colleagues in the House, I am troubled by the horrific violence and blatant human rights abuses in the Balkans and frustrated by the continued failure to find a peaceful resolution to the conflict. Furthermore, I share my colleagues' good intentions of seeing the devastating war in Bosnia come to an end or at least allowing the Bosnian government to defend itself against Serbian aggression.

However, I feel it would not be wise to act on this matter over the objections of our NATO allies in Europe who remain opposed to lifting the arms embargo against Bosnia. Given that it is their troops who are on the line and that a rapid escalation in fighting would put our friends in Europe in harm's way, I cannot support lifting the arms embargo at this time. In all, I am convinced that the United States should work with NATO before making any dramatic shift in our policy toward Bosnia. To do otherwise will only weaken our valuable alliance with NATO.

HONORING JOSEPH PICKLE, CLYDE MCMAHON, SR., JOHN TAYLOR, AND OWEN IVIE

HON. CHARLES W. STENHOLM

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. STENHOLM. Mr. Speaker, the Texas State Senate recently passed resolutions honoring four of its native sons who reside in Big Spring, TX. Big Spring is in the 17th District of Texas which I am privileged to represent here in the House.

Joseph ''Joe'' Pickle, a retired editor of the Big Spring Herald who, for more than 46 years, has chronicled the history of the Colorado River Municipal Water District. Joe has worked very hard on behalf of the water district, and has served as the only secretary-treasurer they have ever had. In addition, he has been a tireless advocate for the Big Spring community and plays an active role in civic affairs.

Clyde McMahon, Sr., a long-time Big Spring resident who served as the operator of McMahon Concrete for more than 25 years. During Clyde's service with the Colorado Municipal Water District, no city under its jurisdiction ever had to curtail or ration the use of water. In addition to his invaluable service to the water district, he has donated his time and leadership skills to numerous civic and community activities.

After 31 years of loyal service to the public, John L. Taylor is retiring as a member of the board of the Colorado River Municipal Water District. With John's guidance, the district underwent a $40 million expansion, and he provided outstanding leadership when he served as president during the completion of the Lake Ivie Reservoir and pipeline project. John has given generously of his time to other worthy community activities.

Owen H. Ivie is a well-known engineer and public servant, and has garnered numerous awards relating to his profession. His leadership in obtaining a permit for a reservoir was so appreciated by the Colorado River Municipal Water District board of directors that they named the reservoir the ''O.H. Ivie Reservoir'' in his honor. His knowledge and expertise, as demonstrated by a long and successful career, have certainly made him worthy of legislative recognition.

Mr. Speaker, I respectfully request that the Texas Senate resolutions honoring these four outstanding individuals be included in today's CONGRESSIONAL RECORD. I would also like to thank and commend them for their dedicated service to Big Spring and to the great State of Texas.

SENATE RESOLUTION

Whereas, The Senate of the State of Texas is proud to pay tribute to Owen H. Ivie on the auspicious occasion of his retirement from the position of general manager of the Colorado River Municipal Water District; and

Whereas, The Colorado River Municipal Water District was created in 1949; since that time, with no local, state, or federal taxes involved in the funding of any district project, the Colorado River Municipal Water District has developed three reservoirs along the Colorado River in West Texas to help ensure a long-term water supply for the region; and

Whereas, As a promising young man Owen Ivie joined the water district on January 1, 1953, after having served as project superintendent for Freese and Nichols on the Lake Thomas project; his talents and abilities were quickly recognized, and he rose rapidly through the ranks; and

Whereas, He became assistant general manager in 1958; on April 22, 1965, this exemplary public servant was named general manager; and

Whereas, Characteristics of his tenure are ability, responsiveness, and commitment to do what is best for the citizens of Texas; and

Whereas, Noted for his honesty and integrity, Mr. Ivie has earned the respect and friendship of his colleagues; and

Whereas, Well known in his profession, he has been honored several times: he was named Engineer of the Year by the Permian Basin Chapter of the Texas Society of Professional Engineers in 1964; Conservationist of the Year for 1986 by the Texas Water Conservation Association and Man of the Year in 1986 by the Big Spring Area Chamber of Commerce; and

Whereas, This distinguished gentleman was presented the Service to the People Award by the Texas Section of the American Society of Civil Engineers in October, 1986, was named president of the Texas Water Conservation Association in 1988, and in 1990, was named Outstanding West Texan by the Texas Chamber of Commerce; and

Whereas, Upon completion of the district's Stacy project in 1990, the Colorado River Municipal Water District's Board of Directors named the reservoir in honor of Mr. Ivie, who had overseen the arduous process relating to the permitting of what is now know as the O. H. Ivie Reservoir; and

Whereas, Throughout his long and successful career, he has been supported and sustained by his lovely wife, Yvonne, and their three daughters; and

Whereas, The State of Texas has benefited enormously from the wisdom and expertise of this illustrious public servant, and he is certainly deserving of legislative recognition; now, therefore, be it

Resolved, That the Senate of the State of Texas, 74th Legislature, hereby commend the life of service of Owen H. Ivie and congratulate him on his well-deserved retirement; and, be it further

Resolved, That a copy of this Resolution be prepared for him as an expression of the highest esteem of the Texas Senate.

SENATE RESOLUTION

Whereas, The Senate of the State of Texas is pleased to recognize Joseph ''Joe'' Pickle on the momentous occasion of his retirement as secretary-treasurer of the Colorado River Municipal Water District; and

Whereas, The Colorado River Municipal Water District was created by the 51st Legislature on May 31, 1949; since that time, with no local, state, or federal taxes levied for the funding of any district project, the Colorado River Municipal Water District has developed three reservoirs along the Colorado River in West Texas to help ensure a long-term water supply for the region; and

Whereas, For more than 46 years, this outstanding gentleman has chronicled the history of the water district; he has served as the only secretary-treasurer of the Colorado River Municipal Water District and has attended 316 out of a total of 324 meetings; and

Whereas, He attended the first organizational meeting of the district in 1946 as an employee of the Big Spring Herald; Joe Pickle has been on the job ever since; he retired from the newspaper as its editor in 1975 and continued to serve the district by taking on the additional duties of media liaison as well as serving as secretary-treasurer; and

Whereas, Concerned about the well-being of the residents of West Texas, he has been active in the on-going promotion of Big Spring, West Texas, and the Colorado River Municipal Water District; and

Whereas, A former president of the Big Spring Area Chamber of Commerce, he has also been recognized by that organization as Man of the year; and

Whereas, A man who believes in giving back to his community, he has been instrumental in many community projects; and

Whereas, A longtime supporter of Boy Scouts, he has been presented the Silver Beaver Award, scouting's highest honor; he is

also a past Scoutmaster of Troop One, the first troop west of the Mississippi; and

Whereas, A man of deep religious convictions, he has been an active member of the First Baptist Church of Big Spring and has served as president of the church board of trustees; and

Whereas, The State of Texas has benefited enormously from the service, wisdom, and expertise of this eminent public servant, and he is truly worthy of legislative recognition; now, therefore, be it

Resolved, That the Senate of the State of Texas, 74th Legislature, hereby applaud the career of service of Joseph ''Joe'' Pickle and congratulate him on his well-deserved retirement; and, be it further

Resolved, That a copy of this Resolution be prepared for him as an expression of the highest regard of the Texas Senate.

SENATE RESOLUTION

Whereas, It is indeed fitting and appropriate for the Senate of the State of Texas to pay tribute to Clyde McMahon, Sr., of Big Spring on the momentous occasion of his retirement from 22 years of distinguished service with the Colorado River Municipal Water District; and

Whereas, Throughout his long and dedicated career, Mr. McMahon has served effectively and conscientiously to the benefit of the citizens of West Texas; since 1952, no city served by the Colorado Municipal Water District has ever curtailed or rationed the use of water; and

Whereas, Created on May 31, 1949, the Colorado River Municipal Water District has developed three reservoirs along the Colorado River in West Texas to help ensure a long-term water supply for the region; directors of the district are appointed by the member cities and revenue bonds finance all projects with no local, state, or federal taxes involved in the funding of any district project; and

Whereas, In the beginning, the three-member cities of Big Spring, Odessa, and Snyder had a combined population of 56,000; today, the water district serves a 32-county area that totals 450,000 persons; and

Whereas, Mr. McMahon moved to Big Spring in 1953 after working on a highway project at Sterling City and, for nearly 25 years, operated McMahon Concrete before turning over the management of the company to his son in 1977; and

Whereas, Through the years, Clyde McMahon has become deeply involved in civic and community affairs freely offering his time and expertise; he served as president of the school board and was a two-term president of the Young Men's Christian Association; he was head of the United Way, the American Business Club, and the Texas Ready-Mix Association and worked on the Industrial Foundation; and

Whereas, A former president and director of the Big Spring Area Chamber of Commerce, the esteemed gentleman was named ''Man of the Year'' of the organization in 1974 in honor of his notable contributions to his community; now, therefore, be it

Resolved, That the Senate of the State of Texas, 74th Legislature, hereby express its deepest admiration to Clyde McMahon, Sr., for his invaluable accomplishments during his years of service with the Colorado River Municipal Water District and extend best wishes to him for a most rewarding retirement; and, be it further

Resolved, That a copy of this Resolution be prepared for him as an expression of the highest regard of the Texas Senate.

SENATE RESOLUTION

Whereas, The Senate of the State of Texas takes pride in recognizing John L. Taylor of Big Spring who is retiring after 31 years of loyal service on the Board of the Colorado River Municipal Water District; and

Whereas, Following its creation in 1949, the Colorado River Municipal Water District developed three reservoirs along the Colorado River in West Texas to help ensure a long-term water supply for the region; the district now serves a number of cities in a 32-county area that totals 450,000 persons; and

Whereas, John Taylor joined the board of the Colorado River Municipal Water District in 1964 and in 1983 became the district's fourth president; and

Whereas, A talented and resourceful individual, he has shared in the direction of over $40 million worth of district expansion, and it was during his tenure as president that the district's Lake Ivie Reservoir and pipeline projects was completed; the district capacity now totals 1.247 million acre-feet of permitted storage on the Colorado River; and

Whereas, While serving on the board, Mr. Taylor handled his responsibilities with exceptional skill and dedication, and his work included chairing the Colorado River Municipal Water District's personnel committee and serving on the water rate committee; and

Whereas, An exemplary gentleman and a leader in his community, John Taylor served as president of the Big Spring Area Chamber of Commerce and was recognized as its Man of the Year; he also served as a city council member and as mayor pro tem of the City of Big Spring; and

Whereas, As a member of the Board of the Colorado River Municipal Water District, John Taylor has contributed greatly to the welfare of the communities in the district's area, and his presence on the board will be missed by his colleagues and by the citizens of West Texas; now, therefore, be it

Resolved, That the Senate of the State of Texas, 74th Legislature, hereby commend John Taylor on his many years of distinguished service with the Colorado River Municipal Water District and extend to him best wishes for the retirement years ahead; and, be it further

Resolved, That a copy of this Resolution be prepared for him as an expression of esteem from the Texas Senate.

DRUG ENFORCEMENT ADMINISTRATION OPPOSES THE USE OF MARIJUANA AS MEDICINE

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. SOLOMON. Mr. Speaker, in a June 21, information release the Drug Enforcement Administration [DEA] denounced a recent article in the Journal of the American Medical Association [JAMA] which advocated the use of marijuana for medicinal purposes. Thomas Constantine, administrator of the DEA, stated:

I am very concerned about the JAMA commentary that advocates the medical use of marijuana. Marijuana is listed as Schedule I under the Controlled Substance Act because it has a high potential for abuse and no currently accepted medical use.

There is very little evidence of positive medicinal uses of marijuana. According to Constantine, organizations such as the American Glaucoma Society have expressed ''concern over the harmful effects of marijuana and the lack of solid research demonstrating that its use would do more good than harm.'' And this is not due to lack of research. Since 1971, the DEA has registered 1,605 applicants as qualified to do research with marijuana.

With the drug problem growing at tremendous rates, we must not legitimize marijuana by using it in our hospitals. As Constantine states:

At a time when drug use represents a major threat to our society, in particular our youth, it is extremely important to rely upon sound medical studies rather than anecdotal information to determine the proper place of marijuana under the Controlled Substances Act.

THE INDEPENDENT CONTRACTOR TAX SIMPLIFICATION ACT: FAIRNESS FOR SMALL BUSINESSES AND WORKERS

HON. JON CHRISTENSEN

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. CHRISTENSEN. Mr. Speaker, today I am introducing the Independent Contractor Tax Simplification Act. My bill, which has 100 original cosponsors, is designed to remedy the concern which received the most votes of any issue at the White House Conference on Small Business earlier this month. In a nut shell, the bill clarifies the difference between contractors and employees in Federal tax law.

Today, the IRS uses a 20-factor test to distinguish an independent contractor from a full-time employee. This archaic policy has caused small businesses endless problems. First of all, the test is confusing enough to foil good-faith efforts to put individuals in one category or the other. Second, the confusion gives the IRS the power to force whole classes of workers from one category to the other. It has happened to truckers, to paper-delivery people, to travel agents, to hard-working people from every walk of life.

Mentioning the tortured distinction between employees and contractors is a sure-fire way to infuriate Main Street business people. They are the ones who can't afford the fancy lawyers and CPA's it takes to out-guess the IRS. And when you're in a gray area, you're in trouble no matter how much you spend—because the IRS can decide differently on two seemingly identical cases. This has wreaked havoc on businesses across the country.

For these and other reasons, clarifying tangled Federal tax provisions with respect to the distinction between full-time employee and independent contractor status has emerged as the top priority of the Nation's small business community. As I mentioned, this month the White House Conference on Small Business gave the most votes of any issue to the independent contractor issue. Think about that: of the hundreds of items that the small business community needs, this single issue emerged as the first order of business for policy makers. It sent me a strong message when the Nebraska delegation of the Conference told me this topped their list, as well.

My bill will substitute a new, far simpler set of criteria for determining who is not an employee—a new approach to an old problem. Today's law paints a dizzying portrait of every possible factor which would make someone an

employee. This bill would instead sketch clearly and starkly who would qualify as an independent contractor for tax purposes. By defining the restricted class—contractors—instead of the general class—employees—my bill avoids laying out a labyrinth of rules. Once the distinction is clarified, the problem should all but disappear.

I plan to press this legislation in Ways and Means and hope Chairman ARCHER will bring it up as soon as possible. And let me just say this too: I believe that with the groundswell of support this bill is already getting, including the backing of seven committee chairmen and 14 Ways and Means members, we will pass it in this Congress.

H.R. 1972

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Independent Contractor Tax Simplification Act of 1995''.

SEC. 2. FINDINGS.

The Congress finds that:

(1) Simplifying the tax rules with respect to independent contractors was the top vote-getter at the 1995 White House Conference on Small Business. Conference delegates recommended that Congress ''should recognize the legitimacy of an independent contractor''. The Conference found that the current common law is ''too subjective'' and called upon the Congress to establish ''realistic and consistent guidelines''.

(2) It is in the best interests of taxpayers and the Federal Government to have fair and objective rules for determining who is an employee and who is an independent contractor.

SEC. 3. STANDARDS FOR DETERMINING WHETHER INDIVIDUALS ARE NOT EMPLOYEES.

(a) IN GENERAL.—Chapter 25 of the Internal Revenue Code of 1986 (general provisions relating to employment taxes) is amended by adding after section 3510 the following new section:

''SEC. 3511. STANDARDS FOR DETERMINING WHETHER INDIVIDUALS ARE NOT EMPLOYEES.

''(a) GENERAL RULE.—For purposes of this subtitle, and notwithstanding any provision of this subtitle to the contrary, if the requirements of subsections (b), (c), and (d) are met with respect to any service performed by any individual, then with respect to such service—

''(1) the service provider shall not be treated as an employee,

''(2) the service recipient shall not be treated as an employer, and

''(3) the payor shall not be treated as an employer.

''(b) SERVICE PROVIDER REQUIREMENTS WITH REGARD TO SERVICE RECIPIENT.—For the purposes of subsection (a), the requirements of this subsection are met if the service provider, in connection with performing the service—

''(1) has a significant investment in assets and/or training,

''(2) incurs significant unreimbursed expenses,

''(3) agrees to perform the service for a particular amount of time or to complete a specific result and is liable for damages for early termination without cause,

''(4) is paid primarily on a commissioned basis, or

''(5) purchases products for resale.

''(c) ADDITIONAL SERVICE PROVIDER REQUIREMENTS WITH REGARD TO OTHERS.—For the purposes of subsection (a), the requirements of this subsection are met if—

''(1) the service provider—

''(A) has a principal place of business,

''(B) does not primarily provide the service in the service recipient's place of business, or

''(C) pays a fair market rent for use of the service recipient's place of business; or

''(2) the service provider—

''(A) is not required to perform service exclusively for the service recipient, and

''(B) in the year involved, or in the preceding or subsequent year—

''(i) has performed a significant amount of service for other persons,

''(ii) has offered to perform service for other persons through—

''(I) advertising,

''(II) individual written or oral solicitations,

''(III) listing with registries, agencies, brokers, and other persons in the business of providing referrals to other service recipients, or

''(IV) other similar activities, or

''(iii) provides service under a business name which is registered with (or for which a license has been obtained from) a State, a political subdivision of a State, or any agency or instrumentality of 1 or more States or political subdivisions.

''(d) WRITTEN DOCUMENT REQUIREMENTS.—For purposes of subsection (a), the requirements of this subsection are met if the services performed by the individual are performed pursuant to a written contract between such individual and the person for whom the services are performed, or the payor, and such contract provides that the individual will not be treated as an employee with respect to such services for purposes of this subtitle.

''(e) SPECIAL RULES.—For purposes of this section—

''(1) If for any taxable year any service recipient or payor fails to meet the applicable reporting requirements of sections 6041(a), 6041A(a), or 6051 with respect to a service provider, then, unless such failure is due to reasonable cause and not willful neglect, this section shall not apply in determining whether such service provider shall not be treated as an employee of such service recipient or payor for such year.

''(2) If the service provider is performing services through an entity owned in whole or in part by such service provider, then the references to 'service provider' in subsections (b) through (d) may include such entity, provided that the written contract referred to in paragraph (1) of subsection (d) may be with either the service provider or such entity and need not be with both.

''(f) DEFINITIONS.—For the purposes of this section—

''(1) SERVICE PROVIDER.—The term 'service provider' means any individual who performs service for another person.

''(2) SERVICE RECIPIENT.—Except as provided in paragraph (5), the term 'service recipient' means the person for whom the service provider performs such service.

''(3) PAYOR.—Except as provided in paragraph (5), the term 'payor' means the person who pays the service provider for the performance of such service in the event that the service recipients do not pay the service provider.

''(4) IN CONNECTION WITH PERFORMING THE SERVICE.—The term 'in connection with performing the service' means in connection or related to—

''(A) the actual service performed by the service provider for the service recipients or for other persons for whom the service provider has performed similar service, or

''(B) the operation of the service provider's trade or business.

''(5) EXCEPTIONS.—The terms 'service recipient' and 'payor' do not include any entity which is owned in whole or in part by the service provider.''

(b) CLERICAL AMENDMENT.—The table of sections for chapter 25 of such Code is amended by adding at the end the following new item:

''Sec. 3511. Standards for determining whether individuals are not employees.''

(c) EFFECTIVE DATE.—The amendments made by this Act shall apply to services performed after December 31, 1995.

NATIONAL LITERACY DAY 1995

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. PAYNE of New Jersey. Mr. Speaker, I am pleased to ask my colleagues to join me in observance of National Literacy Day on July 2, 1995. As we move into a technologically advanced, 21st century economy, it is imperative that the American people are equipped with the tools they will need to navigate in such a milieu. Basic literacy is a fundamental prerequisite to survival in our rapidly-developing world. While literacy does not guarantee success and prosperity in a third wave culture, illiteracy does forbode a life of poverty and despair.

When 30 million Americans cannot read, and over 42 million are functionally illiterate, we are relegating these individuals to a life on the cusp of viability and hopelessness. Furthermore, through the economic underemployment that an illiterate populace engenders, we are continuing to underutilize the resources which we possess. As a result, by the year 2000, we will need to retrain 50 million workers to enable them to compete in the new economy. Additionally, the Nation will spend over 225 billion dollars per annum because of the insufficiencies of illiterate workers.

Over the past 10 years, we recognized our commitment to literacy through a nationally observed Literacy Day. Today, I ask that we recognize July 2, 1995 as a day in which we both praise the efforts of those who have worked to increase our national reading capacity, and promote awareness of the shortcomings continually inherent in our educational system.

For example, in my home State of New Jersey, project Focus on Literacy, spearheaded by executive director Caryl Mackin-Wagner has worked tirelessly to increase statewide literacy. However, on the other hand, in New Jersey alone, there are over 800,000 people who are illiterate, and countless others who suffer from functional illiteracy.

This kind of awareness of both our successes and failures is crucial if we, as a Nation, hope to triumph over illiteracy. Therefore, Mr. Speaker, I ask that we again observe National Literacy Day on July 2, and continue our arduous journey toward a literate America.

RECOGNITION OF FRY METALS OF ALTOONA, PA

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. SHUSTER. Mr. Speaker, I rise today to recognize one of the major employers in my district, Fry Metals of Altoona, PA. An employer of over 210 men and women, they specialize in the production and sale of solder and Aquaclean non-lead metal used for pewter statues and figurines. In fact, Fry Metals is the largest tin-lead fabrication center under one roof in the world. Annual sales exceed $40 million. Founded in 1979, it has come to represent the highest quality workmanship in its field with the ability to service the entire U.S. solder market.

While it is a leader in the field of metal production, Fry Metals is also leader in the community as well. Understanding the need to service more than its customers, Fry Metals has gone out of its way to service the community. Fry Metals is a company of the highest integrity whose commitment to public service is a tribute to itself and to my district.

Recently Fry Metals showed us that it is also a leader in our Nation. Inola Casting Works designed a pin commemorating the tragic bombing of the Alfred P. Murrah Federal Building in Oklahoma City. The intent of this project was to sell the pins and donate the funds to the 75 children who lost parents in this tragedy. As Inola Casting Works is one of Fry Metals largest clients, the company stood to make a sizable profit from this venture. Instead, Fry Metals selflessly donated all the metal involved in making these pins to Inola Casting. To date, the sale of these pins has raised over $100,000 for the victims of this tragedy.

I applaud the actions of Fry Metals. It is a company that continually works to improve its standing in the marketplace, in the community and in the Nation. I thank Fry Metals for its efforts in response to the Oklahoma City tragedy, and wish the company best of luck and continued success in the future.

A BRIEF HISTORY OF UNION COUNTY, NJ, RESIDENTS WHO SERVED IN CONGRESS, 1833–1911

HON. BOB FRANKS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. FRANKS of New Jersey. Mr. Speaker, with Representative Erza Darby's passing in 1808, no natives of Union County were sent to either body of Congress until the 23d Congress in 1833. While greater Elizabeth may have qualified for its own seat by modern standards of apportioning congressional districts by population, under New Jersey's method of electing its House Members at-large, it was entirely a hit-or-miss proposition. This method of electing House Members statewide was abandoned by New Jersey in 1843 pursuant to the Congressional District Act, which passed Congress on November 11, 1842.

Union County's dearth of citizens in Congress ended with the election of Thomas Lee of Port Elizabeth—now a part of Elizabeth—in 1832. Representative Lee was the third top vote-getter in the State with over 24,000 votes, entitling him to 1 of New Jersey's 5 congressional seats. Born in Philadelphia in 1780, Representative Lee moved to Port Elizabeth in 1805 and became a merchant, shipbuilder, and landowner. His public life began in 1813, when he became judge of the court of common pleas. In 1814, he was elected to the New Jersey General Assembly and served one term. Elected as a Jacksonian Democrat to Congress when that party swept every seat in the New Jersey delegation, he rose after his reelection in 1834, this time coming in fourth place, to chairman of the Committee on Accounts. He returned to Port Elizabeth after his service in Congress and founded the Port Elizabeth Library and Academy. He died in Port Elizabeth in 1856.

Serving briefly with Congressman Lee in the 24th Congress was William Chetwood, a member of the Whig Party from Elizabeth. Representative Chetwood won a special election to fill the vacancy created by Philemon Dickerson of Paterson, who was elected Governor of New Jersey in 1836. Representative Chetwood was sworn in to the House on December 5, 1836. His tenure in Congress was extremely brief, lasting less than 3 months. During his service in Congress, he served on the House Committee on Public Expenditures. Because of his short tenure in the House, and also because it was customary at this time for freshmen not to make speeches on the House floor, Representative Chetwood did not participate in floor debate or introduce legislation.

Before coming to Congress, Representative Chetwood was a lawyer, and served in the Whiskey Rebellion of 1794 as an aide-de-camp to Maj. Gen. Henry Lee. After Representative Chetwood's short service in Congress, he returned to Elizabeth to resume his law practice. He died in 1857.

With the departure of Representatives Chetwood and Lee from Congress, Union County was again without a favorite son in either body of Congress until 1873. During this period of 36 years, House Members who represented the Union County area tended to be either from New Brunswick to the south, or Newark or Jersey City to the north.

One notable House Member who was not a resident but represented Union County during this time was William Pennington of Newark. Elected in 1858, Representative Pennington took the seat previously held by his cousin Alexander Cumming McWhorter Pennington. Representative Pennington has the distinction of being both the last Speaker to represent Union County in the House, and also the last Speaker to fail to be reelected before Speaker Tom Foley's defeat last year—Pennington would lose after one term of Nehemiah Perry in 1860 by 398 votes. Apparently, Representative Pennington's main qualification for Speaker was his unknown position on the top issue of the day, slavery. On the eve of the Civil War, Representative Pennington was elected Speaker as the least objectionable compromise candidate. A deadlocked House spent 8 weeks debating and balloting before electing Representative Pennington on the 44th ballot by voice vote. As a freshman Member, he proved to be a less-than-adequate Speaker, and utterly ignorant of parliamentary procedure to the point of reportedly asking the advice of a page. He returned to Newark after his defeat, and died in 1862 from an overdose of morphine evidently administered by mistake.

Union County sent its first resident in over three decades to Congress in 1872 with the election of Amos Clark of Elizabeth. Born in Brooklyn in 1828, Clark moved to Elizabeth and established himself in the real estate business, where he became one of the largest landowners in the city. He was also the founder of the First National Bank of Elizabeth. His first foray into politics was as a member of the Elizabeth City Council from 1865 to 1866. From there, he served in the State Senate for one term, 1866–69, before being elected 3 years later as a Republican to the 43d Congress.

Although he would only serve one term, he was defeated for reelection by Miles Ross, the Democratic mayor of New Brunswick, Congressman Clark's legislative record was not unremarkable. He introduced seven bills as a freshman legislator, but only spoke on the House floor once, regarding amending the National Currency Act. One of the bills he sponsored was to improve the channel between Staten Island and Elizabeth, an issue I expect to address as a member of the House Water Resources and Environment Subcommittee. Representative Clark did manage to get one bill he introduced passed in the House, a bill incorporating the Washington Market Co. Unfortunately for him, this legislation died in the Senate.

After leaving Congress, Congressman Clark moved to Norfolk County, MA, but retained business interests in Elizabeth. He died in Boston in 1912, and is buried in Elizabeth.

Union County's next native in Congress was John Kean. The Kean family name is familiar to all New Jerseyans, as the Keans have a long and distinguished history of service of their country. John Kean won election to the House in 1882 by defeating incumbent Miles Ross with 48.2 percent of the vote. Representative Kean was born in 1852 at Ursino, the Kean ancestral estate in Union Township. Ursino is now called Liberty Hall, and it was originally the home of New Jersey's first Governor, William Livingston.

Representative Kean was educated at Yale University and Columbia Law School. Although a lawyer, he was primarily interested in banking and manufacturing.

During Representative Kean's first term in the House, he was appointed to serve on the House Public Building and Grounds Committee, and the House Banking and Currency Committee. He spoke on the floor twice during his freshman term, on Chinese immigration and a rivers and harbor appropriations bill. The bills Representative Kean sponsored included eight private relief bills, as well as a bill to protect Atlantic fisheries, a bill regarding bankrupt municipalities, and a bill concerning pensions for prisoners-of-war.

Representative Kean's early congressional career was twice interrupted by his lack of success at the polls. In 1884, he was unsuccessful in his bid for reelection against Robert S. Green, garnering 46 percent of the vote.

Like Representative Kean, Robert S. Green was also a Union County resident. Born in Princeton in 1831, he attended Princeton University, studied law, and established his legal practice in Elizabeth, where he was active in Democratic politics.

While in Congress, Representative Green served on the Committee on Elections and the

Committee on Private Land Claims. He introduced 25 bills, 20 of which were private relief bills, mainly concerning pensions. The public bills he introduced included legislation to erect a public building in Perth Amboy and Elizabeth, respectively.

Representative Green served only one term in the House. Instead of seeking reelection to the House, Representative Green ran and won the governorship of New Jersey with 47.4 percent of the vote. He resigned his seat in Congress to assume New Jersey's highest office on January 17, 1887.

After serving one term as Governor, Representative Green served as vice-chancellor of New Jersey, and as a judge. He died in Elizabeth in 1895.

Representative Kean came back and was reelected to the House in 1886, again with approximately 46 percent of the vote. In his second term, Representative Kean reintroduced his bill to protect Atlantic fisheries, reintroduced Representative Green's bill to erect a public building in Perth Amboy, and also introduced a bill to aid the Stevens Institute of Technology.

Representative Kean lost his House seat for the final time in 1888 to Jacob A. Geissenhainer, a Democrat from Freehold. In 1892, he ran and lost a race for Governor to George T. Werts, garnering 47 percent of the vote. His political fortunes changed in 1899, however, when Representative Kean returned to Congress yet again, this time as a U.S. Senator.

During Kean's tenure in the Senate, he would serve on the Committee on Claims and the Committee on Foreign Relations. Later in his first term, he chaired the Committee on the Geological Survey from 1901–1903—this committee was abolished in 1921—and later served as the chairman of the Committee to Audit and Control the Contingent Expense of the Senate. He was reelected in 1905, and served until his retirement in 1911. He died in 1914.

In between John Kean's House and Senate stints, reapportionment created an open congressional seat in Union County for the 1892 election. This seat was filled by Elizabeth resident John T. Dunn, who narrowly defeated his Representative opponent with 50.4 percent of the vote. With the exception of the 65th Congress (1917–1919), after Dunn's ascension to the House, Union County would never again be bereft of having at least one of its citizens in Congress.

Representative Dunn was born in Tipperary, Ireland in 1838. He and his father emigrated to America during the Irish potato famine when Dunn was 7 years old. His father placed him with a farmer for rearing and private tutoring, but the young Dunn was unable to handle the hardship of farm living, and he ran away at age 11 to become a cabin boy on a trading vessel in the West Indies. After this adventure, Representative Dunn returned to Elizabeth, was schooled at home, became a local businessman, and entered public service as an Elizabeth alderman in 1878. The next year, he was elected to the New Jersey general assembly, where he attained the speakership of that body in 1882.

After Dunn left the Assembly in 1882, he decided to become a lawyer, and at the age of 44 was admitted to the bar and began practicing in Elizabeth. A decade later, Dunn was elected to the 53d Congress. While in Congress, Representative Dunn served on the Committee on Claims. He reintroduced Representative Green's bill to build a Federal building in Elizabeth, and also sponsored two private relief bills.

As a member of the House Transportation and Infrastructure Committee, I found it interesting to discover that Representative Dunn was very active in advocating public works projects for New Jersey. For example, Representative Dunn participated in the debate on whether to build a bridge across the Hudson River, connecting New Jersey and New York City. Dunn also sponsored legislation to build a drawbridge across Newark Bay, connecting Elizabeth and Bayonne. Similar legislation to Dunn's bill would pass the House under his leadership. Unfortunately, this bill, which would have built what could be considered a forerunner of what many of my constituents call the Turnpike Bridge, died in the Senate.

Representative Dunn was denied a second term by the voters, losing in a landslide with 38.6 percent of the vote. After his single term in Congress, Dunn returned to Elizabeth and resumed his law practice. He died in Elizabeth in 1907.

Representative Dunn's career on Capitol Hill was abruptly ended by Charles N. Fowler, his Republican opponent and fellow Elizabeth resident. Representative Fowler was born in Lena, IL in 1852 and attended public schools. Fowler was well-educated, garnering degrees from Yale and the law school at the University of Chicago. He left the law for banking, however, and helped to organize the Equitable Banking Co. in 1886, and became its president in 1887. To pursue his business interests, Fowler moved east in 1883, settling in the quaint little township of Cranford, which had only incorporated 13 years before. After living in then-rural Cranford for 8 years, he moved to Elizabeth in 1891.

After his election in 1894, Fowler would be reelected to the seven succeeding Congresses, averaging 54 percent of the vote. Early in his congressional career, Fowler primarily introduced legislation that had local rather than national implications. For example, he reintroduced legislation previously introduced by Representative Green to build a public building in Elizabeth. He also introduced legislation building on the work of Representative Dunn concerning a bridge over Newark Bay. Also in his first term, he sponsored a bill to improve the Rahway River, a small yet scenic river that twists through Cranford.

Fowler rose to become chair of the Committee on Banking and Currency from 1901 to 1909. He attracted national attention for his pronounced opinions on financial matters and as a relentless and uncompromising advocate of currency reform. He had acrimonious disagreements over the latter issue with such figures as New York Senator Nelson H. Aldrich and Senator Kean. His most continuous combat, with Speaker Joe Cannon, eventually led to his deposition from the chairmanship of the Banking and Currency Committee. As my colleagues may know, Speaker Cannon (R-IL) was perhaps the most powerful Speaker of the House ever, and would usually take tough action against any dissident Republican Member.

In 1910, Fowler sought the Republican nomination for the U.S. Senate, but was denied. After leaving the House in 1911, Fowler resumed his banking activities in Elizabeth. He also successfully developed marble quarries in Vermont, where a town is named for him. In 1918, he published a comprehensive book on currency.

Fowler moved to Orange in 1930, and died there in 1932. He is interred at Fairview Cemetery in Westfield.

PERSONAL EXPLANATION

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Ms. PELOSI. Mr. Speaker, on June 20, the House adopted House Resolution 168, creating a Corrections Day calendar. I was mistakenly recorded as having voted ''Yes'' on this resolution. My vote should have been recorded as ''No'' on the adoption of House Resolution 168.

GRAVESITE OF UNKNOWN REVOLUTIONARY WAR VETERAN TO HONOR ALL UNKNOWN VERMONT SOLDIERS

HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. SANDERS. Mr. Speaker in 1935 in Plymouth, VT, the grave of an unknown soldier in the American Revolutionary War was discovered. It was found on land owned by a nature conservancy. That year the Daughters of the American Revolution placed a marker and a flag at the grave.

Today, it is my honor to introduce legislation to authorize the President to award the Medal of Honor to the Unknown Vermonter who gave his life while serving in the Continental Army in the American War of Independence. This tribute is especially fitting now that the Vermont legislature has approved legislation designating this unknown soldier's gravesite as an official site to honor Vermont soldiers of all wars who never returned home and whose ultimate fate is unknown.

I also ask that two recent articles from Vermont newspapers be reprinted in the CONGRESSIONAL RECORD to underscore the merit and significance of continuing to recognize the profound sacrifice made by all American veterans to secure and preserve our freedom.

[From the Burlington Free Press, Apr. 8, 1995]

REVOLUTIONARY WAR SOLDIER HONORED

MONTPELIER.—An unnamed soldier buried in Plymouth after the Revolutionary War has been selected Vermont's official unknown soldier following approval of a resolution this week by the Vermont Senate.

The soldier, buried on land owned by a nature conservancy, is believed to have died as he was returning from the Revolutionary War.

According to oral history, the soldier died at a stream a few hundred yards from the wooded knoll where he is buried. The grave was exhumed in 1935, and a body was found. That year the Daughters of the American Revolution placed a marker and a flag at the grave.

The designation honors Vermont soldiers of all wars who did not return home, said Rep. John Murphy, D-Ludlow, who introduced the resolution in the House, where it

was approved in February. A July 4 ceremony is planned at the gravesite near the historic Crown Point Military Road in Plymouth.

[From the Burlington Free Press, Mar. 1, 1995]

VERMONT UNKNOWN SOLDIER MAY SERVE AGAIN—LEGISLATURE CONSIDERS DESIGNATION FOR GRAVE

(By Molly Walsh)

PLYMOUTH.—A nameless Revolutionary War soldier who was buried in a remote, wooded grave roughly 220 years ago may finally find an identity.

The soldier, believed to have died a few hundred yards from Vermont's historic Crown Point Military Road as he returned home from battle, will be designated Vermont's official unknown soldier if a resolution introduced Tuesday in the Legislature is approved.

The designation would honor Vermont soldiers of all wars who never returned home and whose ultimate fate is unknown, said Rep. John Murphy, D-Ludlow, who expects the resolution to be discussed in the House today. It would also give the forgotten soldier, who is buried atop a secluded knoll overlooking the stream where he may have taken his last drink, a place in history, even if he lacks a name.

''History reflects those people that have given their utmost support and their lives in some cases, and I think the young people of the country should understand history on the national level and the state level,'' Murphy said.

The grave is located off Vermont 103, about one-half mile northeast of Lake Ninevah and just north of the Mount Holly-Plymouth line. The land where it sits is owned by The Wilderness Corporation, a Vermont conservation group that owns 3,000 acres in the area, which it opens to hiking, skiing and other recreational uses.

The grave itself is one-third of a mile from a branch of the historic Crown Point Military Road, today a patchwork of paths, town roads and overgrown woods that is frequently hiked by history buffs.

But during the French and Indian Wars, as well as the Revolutionary War, the 77-mile road was traveled by soldiers heading to strategic positions at Fort Ticonderoga and Crown Point, N.Y.

The road, built from 1759 to 1760, stretches from the Connecticut River on the east side of the state to Lake Champlain on the west. There are several graves of Revolutionary War soldiers along and around the road and its many branches.

The grave that was chosen for the designation was selected for its peaceful setting and because the oral history surrounding the soldier's death is compelling.

That history, passed down for generations, holds that the soldier was returning home from battle and stopped to drink at a stream with a comrade. He reportedly died on the spot and was buried on the knoll overlooking the stream.

A local landowner told the story to the Rev. William Ballou of Chester. Ballou, who was also a Boy Scout master, investigated the site and confirmed the grave's location on Oct. 19, 1935. A month later the Chester Boy Scouts cleared brush from the site and placed a wooden marker on the old road that goes by the grave. That year the Daughters of the American Revolution also placed a marker and a flag at the head of the grave. Whether the oral history is true, no one can be sure. But that does not matter to the Rev. Charles Purinton Jr., chaplain and family services coordinator for the Vermont National Guard, who launched the designation effort.

''Nobody really does know what happened,'' Purinton said. But he believes one thing is certain about the soldier: ''He was doing his duty like Vermonters ever since.''

If the House and Senate approve the resolution, a July 4th ceremony is planned at the knoll where the soldier is buried and a simple plaque will be erected. It would be the first recognition of this kind in Vermont.

Maj. Gen. Donald Edwards, the state adjutant general, said that if the designation is made, no great influx of visitors to the site is anticipated. Other than the plaque, he does not expect any changes.

''We think it's classic Vermont, why change it?'' he said. ''We are not going to build any great big monuments or anything.'' However, the site's remote beauty could be its downfall. The path from the dirt road to the grave is uphill, rocky and overgrown. It would be difficult for handicapped people to navigate.

That's a major drawback, said John Bergeron, vice president of the Vietnam Veterans of America Chapter One in Rutland. ''A lot of veterans are getting up there in age,'' he said. ''Certainly access to the place will be a problem.''

But the solitude hanging in the air over the grave covered by field stones and snow inspires contemplation of what put him there. And that makes the site special, said Scott McGee, president of the Wilderness Corporation.

''It is touching to go there and to contemplate what may have occurred and to think about who may lie there and what he may have done,'' McGee said. ''There is a sense of history that starts to surround you when you go to the site.''

PERSONAL EXPLANATIONS

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. CAMP. Mr. Speaker, I would like the RECORD to show that I was not present on Tuesday, June 27, due to the birth of my son, Andrew David. I would like to state for the record that had I been present, I would have voted as follows: On rollcall vote No. 420—''Yes''; rollcall vote No. 421—''No''; rollcall vote No. 422—''No''; rollcall vote No. 423—''Yes''; rollcall vote No. 424—''No''; rollcall vote No. 425—''Yes''; rollcall vote No. 426—''No''; rollcall vote No. 427—''Yes'';

HAWAII PUBLIC RADIO

HON. NEIL ABERCROMBIE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. ABERCROMBIE. Mr. Speaker, during this Congress we are going to have the opportunity to debate the vital role of public broadcasting in the educational and cultural development of our Nation.

As we discuss this issue I want to share with my colleagues an article that was given to me earlier this year regarding the merits of national public radio. Specifically, the author extols the virtues of Hawaii Public Radio. Public radio is unique and adapts to the cultural, geographical and regional differences in the United States. For instance, while Hawaii Public Radio broadcasts ''Morning Edition'' and ''All Things Considered'' from national public radio they also read the news in Hawaiian and provide the daily news from the Pacific. This is an addition to the classical, jazz, blues, and sundry other programs that anyone can tune into and enjoy. No other radio station provides such a variety of programs to its listeners.

Mr. Speaker, diversity strengthens and brightens the fabric of our society. There is a place for Hawaii Public Radio in our society and we must continue to support it. I commend this article to my colleagues and ask that it be printed in the RECORD at this point.

[From the Maui News, Dec. 15, 1994]

MAKING THE MAUI SCENE

(By Rick Chatenever)

Amazing—the Newt Age isn't even upon us yet, but the media is already back as the target of choice. From both sides. First White House Chief of Staff Leon Panetta likened incoming Speaker of the House Newt Gingrich to ''an out-of-control radio talk-show host.'' Trying to become the Gingrich that stole Christmas, Newt wasted no time suggesting that the government should pull the plug on public broadcasting.

How easy it is to forget public broadcasting's role in creating a climate that made someone like Newt possible. True, it probably has something to do with his talents (you'd be an over-achiever, too, if your name was Newt). And it probably has something to do with tapping into the mood of a just plain irked nation. Hey, why can't anyone figure out what's wrong—? Hey, why can't anyone fix it—?

But PBS was right there with the other panel shows, ushering in the ''don't talk while I'm interrupting!'' shout fests that have now replaced TV analysis from Washington, D.C. insiders.

Is it politics, journalism or show business—? You be the judge. The players move back and forth freely—Pat Buchanan leaves ''Crossfire'' to run for president, David Gergen leaves ''The MacNeil-Leher Report'' to try to straighten out the Clinton White House, Mary Matalin and James Carville run opposing presidential campaigns, then go on to live out their own Kathryn Hepburn-Spencer Tracy movie.

When Al Gore debated Ross Perot on the merits of NAFTA, they did it with all the maturity of a couple of second graders, fingers in ears, taunting. ''I'm rubber, you're glue . . .''

In this climate, he with the longest wind wins, and the spoils go to the most bellicose. Rush rules the roost . . . but you can bet Newt can't wait to get into the act.

Before he does, I'd like to offer a few words in praise of Hawaii Public Radio.

NPR, or PRI, or whatever it calls itself to try to stay out of Jesse Helms' direct line of sight, is where the dial of my car radio is most of the time. I quote it regularly. I bore friends with stories of whatever obscure character has shown up as an interview subject that day.

KKUA is a magic link, from the two lane roads criss-crossing this island to . . . Everywhere Else. Just mentioning names of NPR voices—Bob Edwards, Cokie Roberts, Baxter Black, Click and Clack, Andre Codrescu, Bailey White, Daniel Shore, Noah Adams, Garrison Keillor, Sylvia Pajoli, Neil Conan, Cory Flintoff, Nina Totenberg, even Frank Deford, when he's not getting to carried away with the sound of his own voice—is enough to draw smiles from those of us who share the habit. When I get together with friends from the Mainland, we discover NPR is something we all have in common. It's the tom-tom beat for the global village. Not to mention, the place to listen to classical music.

It's a daily link to what one of my Native-Hawaiian friends still insists on referring to as *America*. But listening to it from this side of the Pacific is mo' better. Many—many—have been the times when the voice on the radio was coming from Sarajevo, or inner-city Chicago, or Moscow, or London or New Orleans . . . while the view through the windshield was of a cloud-draped Haleakala . . . or whales sporting off Sugar Beach . . . or rainbows disappearing in a West Maui mountain valley. . . .

Where else can you hear the latest in the O.J. Simpson case, or get the inside scoop on Clinton White House strategy, as you drive the kids to school through a cane field . . . ?

Where else is the six o'clock news read in Hawaiian? Where else is the latest political upheaval in Papua, New Guinea—they happen regularly, and sound like Marx Brothers movie scripts—cause for a daily update?

On a radio dial dominated by demographics and marketing niches, and crowded with stations all trying to sound like each other, only better, Hawaii Public Radio is definitely something else.

Mirroring this unique world we live in is one thing. Making it a better place is something else. Just being a source of pleasure in its own right is something else again.

Hawaii Public Radio succeeds amazingly well on all counts.

WHAT THE AMERICAN PEOPLE WANT

HON. LAMAR S. SMITH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. SMITH of Texas. Mr. Speaker, the American people sent us to Washington to balance the budget. We now have a balanced budget that restores this American dream.

The American people sent us to Washington to deflate the uncaring Federal bureaucracy that meddles in and micromanages their lives. Our conference budget eliminates dozens of needless commissions, streamlines agencies, and consolidates departments.

The American people sent us to Washington because they are tired of Alice in budgetland gimmicks and games and want honest kitchen-table accounting. By ending the deceptive practice of baseline budgeting, we've ended Congress' shell game, which raided the family budget for the ever-increasing Federal budget.

The American people sent us to Washington to cut Federal spending and we have. We eliminated 283 programs: some wasteful, some outdated, some duplicative, and some run better by families, communities, and neighborhoods.

The American people sent us to Washington to save and protect important entitlement programs by controlling the spiraling growth that threaten them. We do this by our plan to fix, save, and improve Medicare.

Mr. Speaker, it's not the Government's money to take. It's the family's money to keep. Vote for the balanced budget that we've agreed upon. Reduce the Federal budget to increase the family's budget.

TRIBUTE TO CHIEF HAROLD V. MOORE, HAZEL CREST POLICE DEPARTMENT, HAZEL CREST, ILLINOIS042

HON. MEL REYNOLDS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. REYNOLDS. Mr. Speaker, I stand today to acknowledge a truly outstanding community leader. I would like to first thank Chief Harold V. Moore for his tireless efforts in protecting the citizens of Hazel Crest, Cook County, State of Illinois. Chief Moore has served the community honorably and with dedication for the last 31 years.

The community of Hazel Crest has certainly benefited from Chief Moore's service, and for that I would like to offer him a sincere ''thanks'' on behalf of the residents of Hazel Crest.

I would like to also wish him a fulfilling and restful retirement. I hope he enjoys reflecting on his many accomplishments and know that we will always remember his commitment to the community.

ST. JAMES EPISCOPAL CHURCH IN FORT EDWARD, NY, CELEBRATES 150TH ANNIVERSARY

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. SOLOMON. Mr. Speaker, those of us who live in the 22d Congressional District can boast of living in one of the most historical regions of the country.

In so many cases, the old churches in the district, along with their spiritual functions, often serve as virtual museums of area lore, with their registries and records of baptisms and marriages of historical figures, and growth patterns which reflect and parallel the growth of the area.

One such church, in fact one of the foremost examples, is the St. James Episcopal Church of Fort Edward, NY which is celebrating its 150th anniversary.

Fort Edward, NY first appears in the history books as part of the historic battleground between Albany and Montreal. During the early years of Fort Edward's existence, changes were taking place in the social and economic life of the community that facilitated the growth of the church. With the construction of the Champlain canal and the economic development of the Hudson river trade route, the Fort Edward community was growing and right along with it the Episcopal Church of St. James.

On May 21, 1845, the cornerstone of the Church of St. James was laid. Since that day, the Church of St. James has overcome many fiscal problems that endangered the future of the organization. This congregation, however, did not give up without a fight and through the grace of God and the faith of the community, the Church of St. James is alive and well today.

Even though the congregation is not a very large one, the members are happy to be together and worshipping in their own sanctuary in Fort Edward. Mr. Speaker, this small group of people exemplify faith and camaraderie. The church is successful because the people within it work to make one another stronger. This congregation demonstrates how church communities all across America enhance strong families and sound communities.

Throughout its long history, this church, like so many others in the area, has been the focus of community life and a bastion of the best virtues society has to offer. Mr. Speaker, please join me in expressing congratulations and best wishes to St. James Episcopal Church on the commendable occasion of their 150th anniversary.

SUNRAYCE '95 AND THE SOUTH DAKOTA SCHOOL OF MINES & TECHNOLOGY

HON. TIM JOHNSON

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. JOHNSON of South Dakota. Mr. Speaker, I would like to take this opportunity to congratulate the South Dakota School of Mines & Technology's solar car team for their outstanding efforts as first time participants in Sunrayce '95.

Sunrayce is a 1,150-mile cross country race for solar cars, starting in Indianapolis, IN and ending in Golden, CO. The race is jointly sponsored by the Department of Energy and General Motors, and its efforts are twofold. First, to promote student interest in technology and the environment. The 36 university-sponsored solar cars represent the best and the brightest engineering students, who designed their solar powered cars from the bottom up using advanced environmentally sound technology. Second, Sunrayce, which draws a large crowd, helps increase public awareness for a clean environment. It enables the public to get excited about new technology and ideas. Additionally, Sunrayce allows students to show off their talent, and capture the attention of big names in the industry who are looking to recruit, by impressing them with their ideas and abilities.

As a first time participant, the South Dakota School of Mines & Technology solar car team did exceptionally well. I am extremely proud of the School of Mines & Technology's efforts to participate in this worthy promotion of new technology, and the key role it will have on the environment in the turn of the century. It is truly a fantastic way to educate students and encourage public awareness.

I ask my colleagues to join me in recognizing and congratulating the South Dakota School of Mines & Technology for their outstanding participation in Sunrayce '95.

KOREAN APPRECIATION

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. RICHARDSON. Mr. Speaker, I recently had the opportunity to meet face-to-face with leaders of North Korea and discussed a variety of important issues facing our two nations including a pending nuclear accord.

My talks also focused on the need for our two countries to work jointly to resolve the cases of some 8,200 Americans who are still listed as missing in action from the Korean war. Certainly, the families of these missing Americans believe progress must be made on this important front before closer relations develop between our two countries.

Those American servicemen who returned from the Korean war know that we can work with Koreans. In fact, many of these veterans fought side by side with Koreans from the south as we battled the north. And many of these relationships between American and Korean servicemen that were first made more than four decades ago continue today.

In fact, a constituent of mine from Las Vegas, NM, Fredric Stoessel who served in Korea, recently told me about a reunion he had with his roommate aboard the U.S.S. *DH Fox* DD779. Mr. Stoessel's roommate, Un-Soh Ku, was a serviceman in the Korean military and recently retired as a captain in the ROC Navy. Mr. Stoessel was so moved by Mr. Ku's comments of appreciation to America and our people that he has asked me to share his speech with my colleagues in the Congress so that all of our constituents can have access to his gratitude.

At a time when we are trying to resolve outstanding issues with the North Koreans and bridge the gap between all Koreans and Americans, I believe Mr. Ku's speech will be a welcome addition to the increased dialog.

Chairman of the D.H. FOX Reunion, Ladies and Gentlemen: It is a great honor for me and my wife to attend at this reunion meeting, and I would like to extend my sincere appreciations to my old D.H. FOX shipmates who make me possible to be here after 40 years we had to part. 40 years! It's a quite long years anyway, I'm glad I'm still alive and you people are still here.

I don't know if it is proper place and time to mention about late ADM, DAER, but it is a most regretable for me ADM. is not here with us. Probably old shipmates of D.H. FOX would remember, ADM. DAER was not only the CAPT. of the FOX but a great teacher for me. I was a just kid when I was assigned to USS FOX and it was a my first assignment as a naval officer who has just graduated from KOREAN NAVAL ACADEMY.

I think it is my duty to report about my country after the Korean War, because my country was saved by the United States when we had a sudden attack from North-Korea in 1950, USS D.H. FOX is the one of saver of my country, and most brave and brilliant crew of D.H. FOX is here tonight. I am proud of these old shipmates we fought against North Korea and communists shoulder to shoulder.

After the Korean war in 1953, almost everything was destroyed in every field, and we had to rebuild my country from nothing. From the begining, thanks again, your great country gave us economic, military and other necessary assistances to stand alone, and our people were working hard not only to stand alone, but to make a step forward to develop the country.

Now, I am happy to report about my country, that my country has grown economically very fast, and one of four Asian Dragon, so called, that means New industrialization country with per capita of more than $6,000. We are working hard to catch up developed countries now.

Politically, we are now a member of UN organization, and we are doing our best to cooperate with other UN members for the world peace, economic development and other world issues. As you all know, your country helped my country under UN flag during the Korean war, and we owe so much to the UN. Now, our turn to return as much as possible contributions for the world, and we are glad to have the capabilities to do so.

We are still one of your closest allies, and I am sure the relations will remain forever. Militarily, your armed forces are stationed in my country with our government and the people's request to protect North Korea's threat. As you all know, North Korea is the only Stalinist communist country remain in the word. But we are making our every effort to unify Korea, and we are sure, very near future, we are able to accomplish unified Korea. The international trend is our side and we hope North Koreans will soon open their eyes for the freedom.

The other fields including social, cultural, and etc., have developed satisfactory, and what I would like to say is that these developments in Korea is the fact, but if Korea is not there will be nothing. Korea's existence was very in danger when we had North Korea's attack in 1950, and your country including you, the crew of the USS D.H. FOX protected against North Korea's invasion, and we are now here. Perhaps, my deep appreciation to you, are not enough, but I would like you to understand I am saying ''Thank you'' from the bottom of my heart.

After D.H. FOX assignment, I returned to my country and served as a naval intelligent officer ROK Navy until my retirement in 1970 with rank of captain.

Through my life, the most unforgettable life is with D.H. FOX. Because it was my first assignment and all of shipmates were so kind and quide to me a navy life. I feel shame on myself that I lost contact with such nice my old shipmates for 40 years. Anyway, I'm here for reunion and will never lose the contact even over 60 years old man.

Well, before closing my speech, I hope you understand my awful English. If any of you happened to have any opportunity to visit Korea, please contact with me. I and my wife will be very happy to have an opportunity to serve you as your friend.

Thank you, thank you very much.

A MAN OF TWO WORLDS

HON. SHERWOOD L. BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. BOEHLERT. Mr. Speaker, an aide to General Washington remarked that the different tribes of Indians ''say there never was such a man and never will be another.''

They were talking about Sir William Johnson (1715–1774), a man of two worlds, who served as the King of England's agent among the Six Nations and a celebrated Mohawk Iroquois chief.

He was a central character in the struggle for survival among pioneers and Indians in the northern frontier of colonial America. He as born in Ireland and came with few resources to America where he managed his uncle's estates on the New York frontier. Due to his toil, vision, and leadership, the region developed by attracting more immigrants and exploiting its rich soil and strategic location, despite arduous winters, exotic plagues, trading disputes, and the guerrilla warfare that threatened every living being on that frontier.

A prominent military achievement in his career was his building of an alliance among poor farmers and Iroquois that, against all odds, defeated the professional French armies at the Battle of Lake George and helped the English win control of North America in the French and Indian War (1754–1763).

Author Robert Moss is also a man of two worlds. He is a writer with a talent for bringing an important—and almost forgotten—part of our history back to life. He completed an historical novel entitled, ''The Firekeeper,'' which will be published by Tom Doherty for Forge Books on July 5. Through his narratives, which are backed by extensive historical research, the images and emotions of our ancestors are requickened in a high-intensity drama. He ''makes the bones live'' by remaining faithful to documented academic sources yet granting himself ''license to drive a horse and carriage through the gaps.''

In cooperation with British Ambassador Sir Robin Renwick, Maurice Sonnenberg, and United South and Eastern Tribes President Keller George Senators DANIEL PATRICK MOYNIHAN and ALFONSE D'AMATO, Representative MICHAEL MCNULTY, and me, Forge publisher Tom Doherty will host a reception on July 11, the anniversary of Sir William's death, in the Capitol honoring Robert Moss and his upcoming publication that ought to be destined for the best seller list.

There is a vignette from Robert Moss's book that helps us understand Johnson and his special role among the pioneers and the Indians. Johnson is fighting to win the favor of the Mohawk leaders, particularly the ruling clanmothers. But the Mohawks are suffering from an outbreak of smallpox that has been introduced to them through infected blankets given to them by unscrupulous land speculators, and the women are understandably increasingly wary of white influence on their lands and way of life. Johnson is trying to inoculate the diverse ethnic peoples of the valley against the disease, and he offers to ''take the seed of the white death'' into his own body and show the Indians that it will help them live.

After Johnson rose in influence in the Iroquois Confederacy, earning the title ''The Firekeeper,'' he also gained recognition as the sole superintendent of Indian Affairs in North America for the British crown, and was awarded a patent of baronetcy. Truly a man of two worlds, by the conclusion of the French and Indian wars, Johnson secured on his own terms, a moment of peace in the valley. ''I will be Sir William * * * but I will bear my own arms, and my supporters will bear my own crest, not a hand-me-down from the users of Ireland.''

The need to weave a fabric from the world of our past into present is imperative. As this book goes to press, many of the historic resources, including battlefields, forts, homes, and buildings that are mentioned in this drama, are threatened by local, State, and Federal budgetary stringency. It is necessary to inspire citizens to action and form partnerships to help protect valuable sites that serve to instruct our citizens about the Nation's past. In our own Mohawk Valley, a nonprofit organization is being developed, the Northern Frontier Project, by visionaries who have found in the sacrifices of our ancestral past a pathway for a better future. This project will educate others about our history and promote economic development and tourism opportunities that will help us retain and enhance our many sites and resources.

I consider myself one of the luckiest Members of Congress, to have a Robert Moss, a man of two worlds, who's able to travel among the spirit world and the real world, the past and the present, to tell the stories of our heroes and villains, of virtue and vice. He's not just chronicling history, he's bringing it to life through remarkable stories about an underreported part of America, and helping people to understand events, victories, and tragedies that are essential to understanding who we are and what cooperation among cultures it took to get us here.

Lastly, with cooperation again in the valley, we can dream about all the possibilities that we can achieve. Thank you Robert Moss. The people of the valleys salute you and your work and wish you that greatest success.

I am including for the RECORD ''The World of the Firekeeper,'' which was prepared by Robert Moss for this event.

THE WORLD OF THE FIREKEEPER

The North-East frontier was the decisive frontier in American history. In the 1600s and 1700s, New York, New England, and Pennsylvania were the scene of three gigantic and often tragic struggles: between the newcomers and the native inhabitants, between the British and French empires, and between Loyalists and Patriots. The battles that were fought here—especially at Saratoga and Oriskany, in upstate New York, in 1777—decided the fate of the American Revolution and opened the way to the West.

In many ways, it was on this first frontier, already 150 years old by the end of the French and Indian Wars, that a distinctively American identity was born—diverse, self-reliant, impatient with the Old World conceptions of inherited rank and station. The first wave of mass immigration from Europe came from Europe to New York in 1710, with the arrival of 3,000 Palatine Germans. Colonial New York and Pennsylvania became the first ''melting pots,'' with the rising tide of immigrants from many nations.

On the Northern Frontier, the pioneer settlers encountered two families of Indian nations: the Iroquoians and the Algonkians. Before first contact with Europeans, five Iroquois nations, guided by a prophet called the Peacemaker, had come together to form a great Confederacy whose constitution impressed Ben Franklin so powerfully that he recommended it as a model to the divided colonists. Renowned for their oratory and statecraft, feared by their enemies as ruthless and courageous fighters, the Iroquois commanded two vital river-roads through the forests that were all-important in early trade and warfare: the Hudson-Champlain route between New York and Canada, and the Mohawk River-Oswego route that led from the English colonies towards the Great Lakes and the North American heartland.

The warrior Iroquois were also a matriarchal society. A Mohawk myth recalls how a woman led the people's long migration across the north of the continent to an area near modern Quebec City and finally down into the Mohawk Valley. The clanmothers picked the chiefs, and the women occasionally ''de-horned'' a chief who failed in his duties. The women insisted on the ancient teaching that a chief must consider the consequences of his actions down to the seventh generation after himself.

But the arrival of the Europeans threw traditional Iroquois society into turmoil. The newcomers brought firearms and metal tools; it became vital to have these. The newcomers created a new appetite for alcohol, which was previously unknown to the Woodland Indians, and which they had little ability to metabolize. The traders wanted furs—and increasingly, land—in return for guns and goods and liquor. The Iroquois were soon caught up in savage warfare with neighboring tribes over the control of the fast-diminishing supplies of beaver and other furs. Their losses in battle were less devastating than the terrible inroads of alien diseases—smallpox, influenza, and measles—to which the Indians had never been exposed and for which traditional healers had no remedies.

By the early 1700s, caught up in a struggle for survival, the Iroquois were deeply divided. Should they side with the British or the French, or stand neutral, in the conflict between world empires that was now being played out on American soil? Should they reject their ancient spiritual traditions—which taught the necessary balance between humans, the earth and the spirit worlds and the supreme importance of dreaming—or follow the God of the foreigners who came with cannons and horses?

Into this scene walked William Johnson (1715–1774), one of the most extraordinary men in American history. His Irish roots and his rise to power and fortune on the first frontier are described in vivid detail in ''The Firekeeper.'' Johnson came to the New World, like so many other immigrants, in hopes of getting ahead. Starting out as a trader and farm manager in the Mohawk Valley, he eventually succeeded in making himself one of the richest men in the colonies. Through fair dealings and by immersing himself in their lives and customs, Johnson developed a personal influence among the Iroquois that enabled him to persuade them to fight on the British side in the French and Indian wars. This was a decisive contribution to the eventual British victory, since the British never won a significant battle in the American woodlands without the help of Iroquois scouts and auxiliaries. As an amateur general, Johnson led a restive force of New England militiamen and Iroquois rangers to victory over a professional French commander at the Battle of Lake George.

But the significance of Johnson's achievement, in the history of the American frontier, goes much deeper. Though he became the King's Superintendent of Indians, he was as much the Iroquois agent to the colonists as the King's agent among the Indians. Indeed, he became an adopted Mohawk warchief before he held a commission from the Crown. He championed the Iroquois against land-robbers and racist officials, like the British general who advocated killing off the Indians en masse during Pontiac's revolt by spreading smallpox among them with the aid of infected hospital blankets. Johnson promoted Indian school and inoculation against the smallpox virus, once the method (first observed in Africa) became known in the colonies. He encouraged Iroquois women to go into business as traders. He introduced new crops and methods of agriculture. In his later life, with a Mohawk consort—known to history as Molly Brant—at his side, Johnson presided over a remarkably successful experiement in interracial cooperation.

Johnson's homes in the Mohawk Valley—Fort Johnson and Johnson Hall, both memorably described in ''The Firekeeper'' and ''Fire Along the Sky''—are well-preserved and open to visitors, as are many of the other sites of frontier New York, such as Fort William Henry (scene of the Battle of Lake George), Fort Ticonderoga, the Saratoga battlefield, the Old Stone Fort at Schoharie, Fort Plain, Fort Stanwix, and Old Fort Niagara. Sadly, funding problems have led to the—hopefully only temporary—closing of the Oriskany battlefield site, scene of the first American civil war as well as a critical turning point in the American Revolution. Budget constraints threaten other sites. As Robert Moss comments, ''I hope my historical novels will help revive public interest in the places where—in so many ways—America was born. The Iroquois say that a tree without roots cannot stand. I believe they are right.''

Asked to explain how The Firekeeper differs from previous accounts of the North-East Frontier, Moss explains:

''First, I tried to give the women their revenge. Amongst white Europeans, the 18th century was pretty much a man's century. But the dominant character in ''The Firekeeper,'' in many ways, is Catherine Weissenberg. She is a historical figure—a Palatine refugee who came to the colonies as an indentured servant and became Johnson's life partner (though never his wife) and the mother of his white children. Another poserful character in the book is Island Woman, a member of a lineage of women healers who became Mother of the Wolf Clan of the Mohawk Nation. Through her eyes, we see the women's mysteries and the reverence for women within a native culture whose primary pronoun is she not he.

''Second, in the Firekeeper I have married executive archival research to oral tradition, both from Native Americans and from descendants of Valley settlers. To borrow a phrase from the anthropologists, I have ''upstreamed' what I have learned about native culture and spirituality today to help illuminate how things may have been then.

''Third, I have tried to go inside the mindset—the interior worlds—of different people and peoples. In ''The Firekeeper,'' you can read a blow-by-blow account of a battle, a traders' sharping, or a machiavellian plot laid in a back room. Or you can find yourself deep inside the realms of the shaman, for whom the dream world is the real world and spirits walk and talk at the drop of a feather. I tried to make the book as multidemensional as its players.''

ESSAY CONTEST WINNERS

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. HYDE. Mr. Speaker, I love to get involved with projects that involve our younger generation. One of the projects I sponsor every year along with the high schools and junior high schools in my district, is an essay contest. I asked the high school students to write about how we amend the Constitution and how is it different than passing a law, and the junior high students were to write about life in colonial times. I would like to thank Mrs. Vivian Turner, the former principal of Blackhawk Junior High School, who judged the hundreds of entries received. I want to congratulate Chanda Evans from Addison Trail High School and Kathleen Steinfels of Mary, Seat of Wisdom School in Park Ridge the first place winners for their very creative papers. I was very impressed with the essays and want to share them with my colleagues.

HOW DO WE AMEND THE CONSTITUTION?
WHY IS IT DIFFERENT THEN PASSING A LAW?

(By Chanda Evans)

Most people realize that changing the structure of the Constitution is a difficult process, and much more involved than passing a law. What most people do not know is the methods of proposing and ratifying a amendment set forth in the Constitution, or any of the specific differences between amending the Constitution and passing a

law. The United States Constitution provides two methods of proposing and ratifying a amendment, both of which allow the interests of the national and the state government to be taken into consideration equally.

The first step in amending the Constitution is to have the amendment proposed by one of two possible ways. An amendment can be proposed by a two-thirds vote in both houses of Congress, or by a National Constitutional Convention called by Congress, on a petition from the legislatures of two-thirds of the states. All amendments proposed thus far have originated from Congress.

The second step is getting the proposed amendment ratified. The Constitution also provides for two alternative methods of ratification, both methods however, leave the ratification decision to the states. Article V of the Constitution sets out two distinct modes of state ratification, leaving the choice of mode to the Congress. For each amendment proposed, whether by Congress of by a national convention, Congress must choose whether to submit the amendment to state legislatures or to conventions in each state for ratification. If the proposed amendment is given to the state legislatures for ratification, a total of three-fourths of the states must agree for the amendment to be passed. Of the thirty-three amendments that have been proposed, thirty-two have been sent to the state legislatures for ratification. The second method involves sending the proposed amendment to the state conventions for ratification. During this process each state must choose delegates, who will then vote for or against the amendment. For this method of ratification there must also be a total of three-fourths (thirty-eight) of the states in agreement.

Having the Constitution amended is a difficult process simply because of the many people that must agree on an amendment for it to become passed. Our founding fathers included these alternative means of both proposing and ratifying amendments in an effort to balance the power between federal and state factions, while allowing input from the common people.

A Constitutional amendment and a law are both rules that the people of the United States must obey. However, the processes that take place are quite different. Although Congress's role in amending the Constitution and in passing a law are similar, there are some differences; the percentage of votes required, the President's role, and the approval process.

Both a proposed amendment and a law are put before Congress for a vote. For each of these the two houses of Congress must also approve identical forms of the amendment of law. A law however, may only be introduced by a Senator or Representative while Congress is in session. The major difference between the voting processes in Congress is the percentage of votes required. In the amendment process a two-thirds vote is required, sixty-six percent. When passing a law a simple majority vote is required, as low as fifty-one percent. This difference obviously makes it easier for a law to get a passing vote in Congress.

The second difference between the amending and the law making process is the President's role. When an amendment is being proposed and ratified it goes through Congress or a Constitutional Convention, then the states. The President has no part in this procedure. When a law is being passed it goes directly to the President after being voted on in Congress. In this situation, the President has three choices. He can sign it, allowing it to become law, he can veto it, or he can ignore it and allow it to become law in ten days (excluding Sundays) without his signature. The President has a much greater role in the law making process, and has a direct influence on the content of the bill.

The third difference between amending the Constitution and passing a law is the approval process, more specifically, who is involve in it. When an amendment is put up for ratification it must go to the state legislatures or the state conventions for approval before becoming an official amendment. A law, on the other hand, requires no approval or input from the states. When passing a bill into law it requires only the majority vote of Congress and the signature of the President. However, if the President decides to veto the bill Congress can override his decision by two-thirds vote in both houses. This process makes passing a law a decision involving only the legislative and executive branches, or possibly just the legislative branch. This is clearly a decision of the federal legislation, requiring little or no assistance from the state government. This process effectively cut out the state government, unlike the amendment process that requires an agreement between the state and national government to be passed.

At the Constitutional Convention of 1787 George Mason of Virginia said, ''Amendments will be necessary, and it will be better to provide for them, in an easy, regular and constitutional way than to trust to chance and violence.'' Our forefathers obviously realized that laws would change and evolve over the years, and that new laws they couldn't even visualize at that point would be needed as times also changed. Fortunately, they also realized that the process to change the very framework and structure of the government, the United States Constitution, must be a much more controlled process. By providing two different methods of proposing and ratifying amendments to the Constitution they made sure that such major changes would be made in agreement by the state and national government. Protecting the interests of both factions, and also reflecting the interests of the people.

TIMES TO REMEMBER

(By Kathleen Steinfels)

Snowshoes . . . candlelight . . . fireplace . . . animal fur . . . buckets of water . . .

All of these are images of life in colonial America. Life was very harsh, especially when compared to life in twentieth century Park Ridge.

Colonia life was centered around the family—much more so than modern American life. Because colonial families were relatively isolated and because each member of the family was counted on to help the entire family survive, family members were close and worked as a team. Chores were distributed: milking cows, feeding chickens, tending crops, chopping firewood, keeping the house in repair and as weathertight as possible, making candles, keeping the fire, collecting water for washing, for watering gardens and animals, making clothes, hunting meat, making food, and caring for younger children. All of these demanded energy and concentration. Often things like schooling became a luxury because education itself was not mandatory for survival. Each family had to be able to provide all basic necessities on its own. Sometimes trading would allow for special treats such as ready-made cloth from overseas, special foods, and shoes.

These things are often taken for granted in modern America where families rarely work together, or, for that matter, rarely even see each other. They have become disjointed as each person pursues independent interests and activities. How often does the nuclear family even sit down at the table to eat a meal together? Does this help explain the disintegrating family of modern America?

Colonial families were large. Many hands were needed to share the workload. Life expectancy was shorter and there was a higher infant mortality rate. Nowadays, families are much smaller and do not have such a strong common focus.

In colonial times the hearth or fireplace was the center of the home, the place from which came both food and warmth. The location of the fireplace affected the way buildings were built. There were few openings to the outside, to minimize heat escaping and for security. Nowadays, the kitchen is still the center of many homes, the source of food, but because of central heating, houses have gotten more complex and full of windows.

Children in colonial times usually worked with their parents whether it be as farmer, cooper, weaver, or blacksmith. Children learned a trade. Each child was important. Nowadays, parents typically go off to work someplace else and the children have little or no connection to the parents' place of work or to the work they do.

In colonial times schooling was not mandatory and schoolhouses were often one-room with a single teacher for many grades. Today schools are much larger and have many teachers, often even more than one per grade.

Colonial Americans came to this New World, abandoning friends, families, and the life they knew to face a challenging new life. Often immigrants came seeking the opportunity to worship God as they wished: Puritans in New England, the Quakers in Pennsylvania, and the Catholics in Maryland. Religion was probably especially important because of the hardships their life imposed. Even if they could not regularly have formal services, God was an important part of life. Today religious freedom is guaranteed, and perhaps even taken for granted.

Gone are the snowshoes, the candles, and the hearth and so too it seems the family-centered life which characterized colonial times.

THE REPUBLIC OF CAPE VERDE'S INDEPENDENCE DAY: REACHING BACK, LOOKING FORWARD

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. FRANK of Massachusetts. Mr. Speaker, today, as the 20th anniversary of the Republic of Cape Verde's independence approaches, I want to take a moment to commemorate this anniversary and mention the people that have made it possible. As a nation committed to protecting individual freedom and establishing economic stability through democracy, the country's independence celebration is a testament to the will of the Cape Verdean people who, brought together by their struggle for freedom and the archipelago's environment, remind us of their American counterparts. Indeed, Cape Verdeans are very familiar with American history; they are, in fact, an integral part of it. Since the 18th century, Cape Verdeans have represented an assiduous and determined part of the American spirit, particularly in New England. Cape Verdeans were builders of the whaling and fishing industry, cultivators of the cranberry bogs and workers in the textile mills. Their arts and crafts have enhanced the beauty of our lives, and their songs and dances have touched our hearts

and our souls. So this year we celebrate the Republic's independence and our own acknowledgment of the Cape Verdean role in American culture at the 29th annual Festival of American Folklife, which opened last week at the Smithsonian in Washington, DC. In the future, we look forward to participating in the growth of a nation abroad and the celebration of its traditions at home.

REDUCTION IN VIP AIRCRAFT

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. DEFAZIO. Mr. Speaker, we have spent a great deal of time this week debating the Federal budget. I believe all Members can agree on the need to eliminate unjustifiable spending. At least one item in the Department of Defense budget falls into this category: the Pentagon's huge fleet of VIP aircraft. I have joined with 10 of my colleagues in introducing legislation to sell off some of these ''generals' jets,'' which would result in a budget savings of at least $130 to $200 million a year.

The Department of Defense has a fleet of about 600 aircraft that are used to transport senior military personnel and civilian officials. About 500 fixed-wing planes and 100 helicopters perform administrative support missions. These aircraft do not include the Presidential aircraft, the 89th Military Airlift Wing, such as Air Force One, nor are they used for operational transport of troops. Rather, they are used for airlift transportation in support of command, installation, or management functions.

The General Accounting Office found that size of the administrative aircraft fleet—often called Operational Support Aircraft—far exceeds the wartime requirements, even according to the Pentagon's own estimates. Only 48 OSA were used ''in theater'' during the gulf war. This suggests that OSA aircraft's main role is not wartime, but peacetime. Even in the United States, the gulf war saw the services using much less than one-half of their inventory. The Commission on Roles and Missions also recommended reducing the size of the OSA fleet. In 1993, the Joint Chiefs report concluded that OSA inventories exceed wartime requirements. The Air Force concurred with the Joint Chiefs in 1994.

However, nothing has yet been done to eliminate the excess aircraft.

The public first heard about the aircraft issue last fall when a high-ranking Air Force general made a very expensive flight from Italy to Colorado. Although the flight was made for administrative purposes, and much less expensive commercial flights were available, a single general and his aide spent more than $100,000 for the trip. The Air Force is even using their OSA planes to fly Air Force cadets to Hawaii to watch football games.

Perks at the Pentagon are no more justifiable than perks in any other agency of the Federal Government. If Congress is to have any hope of balancing the budget during the coming decade, we must focus our attention on reducing budget outlays. This means ending some programs that have little justification. Our bill would offer the American people significant reduction in spending that could either reduce the Federal debt or fund other, more critical spending priorities.

Mr. Speaker, I ask my colleagues to join me in bringing high-flying generals down to Earth. Let's save taxpayer dollars by paring this Pentagon perk.

INTRODUCTION OF THE ADOPTION INCENTIVES ACT OF 1995

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. KENNEDY of Massachusetts. Mr. Speaker, today I am introducing the Adoption Incentives Act of 1995 in an effort to encourage more adoptions in our country.

This bill will provide a range of tax incentives to adoptive parents to help them build families through adoption. Specifically, the bill will make adoption assistance benefits to military and private sector employees for nonrecurring adoption expenses tax-free, and allow penalty-free and tax-free withdrawals from individual retirement accounts [IRA's] for adoption expenses.

There is a desperate need for adoption in our country. Today, almost half a million children are in foster care. Some of these kids languish in the foster care system for more than 5 years, bouncing from one home to another. Between 85,000 and 100,000 of these children are legally free and waiting to be adopted. An additional 3 million children were reported abused or neglected in 1993. Many may need a safe haven—a welcoming home that adoption could provide.

One major obstacle to finding permanent, loving homes for these children is the cost of adoption. The average cost of a private or nonagency adoption is conservatively estimated at $10,000 and can run as high as $45,000. Many adoptive families have to mortgage their homes or borrow money from relatives to build a family.

In response, 180 of the Fortune 1,000 companies have established corporate programs that provide financial assistance to employees to help cover adoption expenses. Behind borrowing money and mortgaging homes, reimbursement benefits provided by employers are the third major way in which parents finance adoptions.These benefits average $2,000 per adoption. In 1993, corporate adoption assistance programs facilitated 2,000 of the 50,000 adoptions that occurred.

The private sector has been especially creative in providing incentives for adoption. We must do more to encourage their efforts—as this bill does.

A similar adoption assistance program was established for military personnel in the defense authorization bill of 1991. Military families are entitled to up to $2,000 to cover adoption-related expenses. Launching this program sent a positive signal to adoption agencies that were often reluctant to start the adoption process due to frequent relocations of many military families. As a result, almost 2,500 children have been adopted with this assistance.

The Adoption Incentives Act would also permit penalty-free and tax-free withdrawals from IRA's for adoption costs. Many of the tax proposals now pending before Congress would allow penalty-free IRA withdrawals for college tuition, buying a first home, or caring for an elderly parent, as well as catastrophic medical expenses. Shouldn't adoption be encouraged in this same way? The answer is clear—adoption is also an investment in the future.

Mr. Speaker, it is time that we send the message that adoption is a valued way of building a family and a future for our children. It is a goal we should all support.

EDITORIAL ON AFFIRMATIVE ACTION

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. FILNER. Mr. Speaker and colleagues, I want to share with you the insights of John E. Warren, editor and publisher of the San Diego Voice & Viewpoint, an African-American newspaper published in my hometown.

In a recent editorial, Warren wrote:

As America appears to be gearing up to make affirmative action the new symbol for the age old attack on the idea of equality and fairness for Blacks in this country, first, then all other groups but White males, it is extremely important that the Black response be one of reason, power, and direct results.

While it is fine to pen letters and speeches of response to the Pete Wilsons who would ride the horse of bigotry and racism into the U.S. Presidency if permitted, those letters and speeches must not become substitutes for direct action. The well known question is then asked: ''What can African-Americans do to reach the moral conscious of an increasingly White America that appears to think it has done too much for too many who said things were not fair and now think that fairness is becoming an inconvenience as times get harder in a changing economy?''

Perhaps the key can be found in the paraphrase of a very old proverb ''he who controls himself is better than he who controls nations.''

Blacks continue to spend billions of dollars in every facet of the American economy with no economic demand for returns on our investments. We spend $300 billion dollars a year collectively and we are begging a nation and its leaders to treat us ''morally right'' when we have not assumed the ''moral responsibility'' for ourselves.

African-Americans must remember that this country is now following a contract on America instead of the U.S. Constitution which Wade Henderson of the NAACP rightly called ''our contract with America.''

Consider that African-Americans have a vote, but most won't bother to use it. We have disposable income for clothes, too many of which are designed for our youth as gang attire, but we don't make these clothes. We buy new cars all over San Diego—many of which are the same as the ones sold by our one Black owned car dealership, but purchased from people who neither care for us or our communities.

We buy liquor, cigarettes, potato chips, butter and toilet tissue in larger numbers than any other ethnic group and make no demands in return. Some of those very people who benefit from our care-free spending habits use those same dollars to buy political votes across this nation that are now focused against our common good—the right to a job based on fairness and merit, the right to social insurance in time of need, the right to food, shelter and education, not based on the

color of our skin but the status of our birth as American citizens.

Perhaps if we went on a selective spending spree where we truly examine how much we spend and what we spend it for, America might rediscover that the issue is not affirmative action after all but one of spending our dollars in such a way that our adversaries will be glad to support us.

We have almost 300 Black owned newspapers in America, yet too many of us would rather get our news from CSPAN or USA Today.

The San Diego Voice & Viewpoint believes that when we harness our votes, the Pete Wilsons of the nation will be closed out of Presidential politics, no matter how much money and bigotry they have. When we harness our dollars, companies that don't hire us or advertise in our newspapers will be forced to make decisions about whether they need our market share.

When we harness our spending, and make our styles the internal commitment to ourselves and our people rather than external fashions, we will affect the American economy. When we harness ourselves the NAACP will have enough money in one, five, ten, twenty and fifty dollar donations to move in 30 days to the position of a financially debt free and sufficient organization to fight for ''colored people.''

When we harness our ability to focus beyond knee jerk reactions to things we hear, we will turn off the vulgar television and radio and CD sounds daily bombarding our very souls and return to the God of our silent tears and of our parents' weary years to find new hope not in what they call us or say about us, but in what we do for ourselves and each other.

Yes, there is a backlash against affirmative action that now reaches to the Supreme Court, but by the power of God almighty, we have not even begun to use our powers of reason, our available economic response and the identification of desired results. Our future is in our hands. The real question is: ''African-Americans, what will you personally do as a response to this latest attack?''

IMPROVING EDUCATION FOR CHILDREN WITH DISABILITIES

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. KILDEE. Mr. Speaker, today, I am honored to introduce the administration's proposal for improving education for children with disabilities under the Individuals With Disabilities Act [IDEA].

Since enactment of Public Law 94–142, the Education for all Handicapped Children Act of 1975, results for children with disabilities have improved greatly. Before the enactment of that groundbreaking law, 1 million children with disabilities were excluded from school altogether, and several were in dehumanizing institutions. Today, one of the basic goals of the IDEA has been met—children with disabilities have access to education.

The Department of Education has undertaken a very thorough process in preparing this legislative proposal. They consulted with parents, educators, and hundreds of others concerned with improving the education of children with disabilities, including congressional staff from both sides of the aisle. They asked for public comment in the Federal Register and received over 3,000 responses. During more than 1 year of consultation, they heard about the strengths of the law, including its focus on individualized approaches, its protection of the rights of children and their families, and its support for innovative approaches for teaching.

The administration's proposal makes improvements to the IDEA to ensure that the fundamental objectives of the law are more likely to be achieved, while preserving existing rights and protections for children and their families. This proposal is based on six key principles that are designed to improve results for students with disabilities:

1. Align the IDEA with State and local education reform efforts so students with disabilities can benefit from them.

2. Improve results for students with disabilities through higher expectations and meaningful access to the general curriculum, to the maximum extent possible.

3. Address individual needs in the least restrictive environment for the student.

4. Provide families and teachers—those closest to students—with the knowledge and training to effectively support students' learning.

5. Focus on teaching and learning.

6. Strengthen early intervention to ensure that every child starts school ready to learn.

As Congress undertakes its review of this legislation, I am certain we will reaffirm our commitment to the basic purposes of the IDEA and the recognition of the Federal role in ensuring that all children with disabilities are provided with the equal educational opportunity that the Constitution guarantees. We now have the opportunity to take what we have learned over the past 20 years and use the administration's proposal to update and improve this law. I commend the administration for their bold initiative and look forward to working with the committee in seeing it through to its final passage.

EIGHTH ANNUAL STAR AWARDS RECOGNIZE ACHIEVEMENTS BY NEW JERSEY YOUTH

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. ANDREWS. Mr. Speaker, I rise today to recognize the accomplishments of a group of high school students who have succeeded in their studies, academic and vocational, despite the barriers which they faced. On June 1, 1995 in Atlantic City, a group of 34 outstanding youths from the State of New Jersey were honored and awarded for their perseverance at the Student Training Achievement Recognition [STAR] Awards.

The STAR Awards, created by the Garden State Employment and Training Association, and sponsored by members of the business community, aim to increase awareness of education and its relationship to employment. The awards are given to youth who are determined to be at risk and who, despite the most difficult of circumstances, either completed their high school education, or who dropped out of high school but completed a training program and obtained a job.

Some of the obstacles which these youths overcame include physical or sexual abuse and neglect; family trauma such as divorce, unemployment, or death; school-age single parenthood; physical and emotional handicaps; and contact with the judicial system which led to conviction or designation as a delinquent. Many of the youngsters honored with these awards overcame more than one of these barriers.

Each Private Industry Council in New Jersey participated in the nomination process, designating a young member of the local community who fought against seemingly insurmountable odds and emerged a winner. The following individuals are the recipients of the 1995 STAR Awards:

Chad B. Jenkins; Wanda Lopez; S. Jonathan Deauna; Ramon Mejia; Jessica M. Carter; Mark Anthony Logan; Gerald F. Wynkoop, Jr.; William Alcazar; Michael McDonald; Olga Sierra; Paris Armwood; Tywanda Whitefield; Brenda Carpenter; Carla Owens; Robyn Murgas; Nicole Richardson; Lakiesha Stokes; Barbara Gomez; Tonia Singletary; Tyese Nichols; Marilyn Sanchez; Ivelys Bruno; Kisha Ann Franklin; Sujeil Rosa; Morris E. Lawson; Madelyn Ramos; Gregory Wertz; Linda Kulick; Lisa Beckett; Sean Devaney; Yanette Gonzalez; Jessica Corchado; Monique Gallman; and Jason Kinney.

The recipients of the STAR Awards are an inspiration to millions of students in similar circumstances throughout the country. They are a shining example of youth who became responsible members of the community despite circumstances which might have prevented them from doing so. I salute these extraordinary young men and women.

THE SMALL BUSINESS REGULATORY BILL OF RIGHTS

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. DUNCAN. Mr. Speaker, today I have introduced the small businesses regulatory bill of rights.

This country's small businesses are drowning in a sea of paperwork. Recently, the Occupational Safety and Health Administration [OSHA] released a list of its most frequently cited violations. The top three on the list were directly related to paperwork, and they alone accounted for over 10,000 citations in 1994.

Additionally, the Small Business Roundtable reports that in 1993 the actual costs of businesses to comply with Federal regulations were $581 billion. Small businesses cannot afford the accounting departments, chemists, and lawyers that it takes to comply with the ever-increasing and confusing regulations issued by the Federal Government.

Last year, the Federal Government added over 68,000 pages of rules and regulations to the millions already on the books. In fact, the regulatory process has become so complex that the Federal Register now teaches classes just so individuals can better understand the rulemaking journal.

The economy of this Nation is based on small businesses. Ninety-five percent of all the businesses in this country are classified as small businesses. They represent the American Dream. Individuals risk life savings in

order to pursue the American Dream only to see it destroyed by Federal bureaucrats.

I believe that the small business regulatory bill of rights will help our small businesses thrive once again. This bill requires Federal agencies to develop a no-fault program to assist small businesses with compliance. It also requires agencies to give owners 60 days to correct violations before assessing fines.

Small business men and women will no longer be treated like criminals by Federal regulators. This legislation will make agencies notify owners of their rights during inspections. This bill will also prevent agencies from harassing small business owners by exempting them from inspections for 6 months once they have been found in compliance with regulations.

We all want a safe working environment for Americans. The question is how do we best provide this environment without generating regulations that destroy thousands of jobs and impede the ability of a business to earn even small profits. I think everyone would agree that a safe working environment is of no use if the regulations that establish it are so severe that they prohibit a business from being successful and staying open.

I think this country could boom once again if we could get our Federal Government under control and let the free enterprise system work as it was designed to do.

I look forward to this Congress passing the small business regulatory bill of rights in an effort to help this Nation's small businesses grow.

FEDERAL OIL AND GAS ROYALTY SIMPLIFICATION AND FAIRNESS ACT OF 1995

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. CALVERT. Mr. Speaker, today I am introducing the Federal Oil and Gas Royalty Simplification and Fairness Act of 1995. This bill amends the Federal Oil and Gas Royalty Management Act with respect to leases of Federal lands and the Outer Continental Shelf [OCS], but does not affect leases on Indian lands. the goal of my legislation is to establish certainty in procedural matters for royalty payors in their dealings with the Department of the Interior, eliminate certain burdensome reporting requirements and simplify others so as to streamline the royalty management program and provide for the equitable collection of royalties.

Approximately 80 percent of the nearly $1 billion annual Federal onshore mineral revenues are generated from oil and gas royalties, as is nearly all of the $3 billion collected annually from OCS lessees. Obviously, the Nation benefits from this revenue stream and it's in our best interest to maintain a royalty system that encourages private industry to participate in onshore and offshore oil and gas development, where appropriate.

But, Mr. Speaker, a serious shortcoming for the industry today is that effectively there is no statute of limitations concerning the Federal Government's auditing of royalty payments. This means that an oil and gas producer's books are never closed out and the Department of the Interior may inquire into royalties owed on production from many decades ago. While the DOI agency charged with such auditing, the Minerals Management Service [MMS], has worked toward a policy of closing out audits within a 6-year period, the Government is not now statutorily required to meet that goal. The Fairness Act would do so prospectively, that is, for production from the date of enactment forward the Secretary of the Interior would be barred from bringing actions against lessees 6 years after the obligation to pay royalty accrues. Of course, the time limitation does not run where fraud is alleged, nor when tolling agreements are reached by the parties.

Another inequitable provision of current law which the Simplification and Fairness Act addresses is the requirement that interest be paid by lessees who have underpaid their royalties, yet the Government does not pay interest on overpayments. My bill establishes reciprocity with respect to interest payments, but first requires a royalty payor—and the Secretary—to ''cross-net'' royalty overpayments against underpayments among all one's public domain or acquired lands leases within any State or collectively for OCS leases. This will effectively reduce interest obligations the Federal Government would owe on overpayments and provide the industry with a mechanism to simplify their procedures within each State in which they do business on Federal leases.

Other provisions of the Simplification and Fairness Act grant relief for small producers who pay royalty out-of-pocket, provide enforcement and compliance relief for producers of de minimis amounts of oil and gas, streamline onerous and costly reporting requirements and thereby reduce the Federal Government's cost of royalty accounting without loss of revenue to the U.S. Treasury nor to the States which share in the onshore mineral leasing revenues.

Mr. Speaker, I urge my colleagues to cosponsor the Federal Oil and Gas Royalty Simplification and Fairness Act of 1995. Let's provide certainty for our domestic industry in its dealing with the Department of the Interior and establish an equitable royalty system for lessor and lessee alike.

PERSONAL EXPLANATION

HON. JOHN JOSEPH MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. MOAKLEY. Mr. Speaker, had I been present, I would have voted in opposition to House Concurrent Resolution 67, the budget resolution for fiscal year 1996, and in opposition to H.R. 1944, rescissions and disaster supplemental appropriations for fiscal year 1995.

REMEMBERING REBBE MENACHEM MENDEL SCHNEERSON, ZT''L

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. NADLER. Mr. Speaker, this evening, Shabbos Korach begins, and Jews around the world will observe the mitzvah of lighting Shabbos candles. But this shabbos also marks the first yahrzeit of the Lubavicher Rebbe.

The Rebbe was the spiritual leader of the Lubavicher Chasidim, but he was also revered and respected as a great tazaddik by Jews and non-Jews around the world. Indeed, his work still lights the learning and daily mitzvot of Jews everywhere. Through the Chabad movement, schools, high technology communications, Mitzvah Mobiles, publications, lectures, and most of all a profound commitment to the importance of Jewish thought, belief and ethics, the Rebbe made an incalculable contribution to the spiritual lives of all people.

The Rebbe lived through pogroms, two world wars, the rise and fall of communism, the Holocaust and tremendous personal challenges. But his idealism, his learning, and his faith shone through it all and inspired millions.

This week the Rebbe was honored by the presentation of a Congressional Gold Medal, authorized by legislation I was privileged to cosponsor. Members of Congress and religious leaders, including the Chief Rabbi of Israel, Rabbi Yisrael Meir Lau, Shlita, paid tribute to the Rebbe.

Mr. Speaker, the Rebbe's yahrzeit offers us an opportunity to reflect on and remember the life, work and contributions of the Rebbe. The Rebbe remains a figure of historic importance. I commend the example of his life to all my colleagues.

TRIBUTE TO GUY R. DOTSON, SR.

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. GORDON. Mr. Speaker, I rise to thank a devoted resident of my hometown of Murfreesboro and a great friend, Mr. Guy R. Dotson, Sr., for his 26 years of distinguished service as district attorney general for Rutherford and Cannon Counties and to congratulate him on his retirement.

A lifelong middle Tennessean, General Dotson was born in Elora, TN. A graduate of Franklin County High School, he received his B.A. from the University of the South and his law degree from the University of Tennessee. General Dotson was appointed district attorney by Gov. Buford Ellington in 1969. He was elected district attorney general in 1970 and re-elected in 1974, 1982 and 1990.

He will be missed not only by his associates in the district attorney's office, but also by the police departments of Murfreesboro, Smyrna, LaVergne, Eagleville, and Woodbury along with the sheriff's departments in Rutherford and Cannon Counties. He has served with distinction all the citizens of the 16th Judicial District

Rutherford County is indeed losing a valuable leader who has shown all of us what it means to serve and undoubtedly will continue to do so. Rutherford County's loss, however, is a big gain for General Dotson's five grandchildren, who will be the new beneficiaries of his energy and attention. The golf course beckons him as well.

Please join me and all other middle Tennesseans in wishing him well in his retirement.

PERSONAL EXPLANATION

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. GEKAS. Mr. Speaker, on Friday, June 30, 1995, I was unavoidably detained and missed a record vote on approval of the House Journal. Had I been present, I would have voted ''aye'' on Rollcall No. 465.

THE SPECIAL OLYMPICS WORLD GAMES

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mrs. KENNELLY. Mr. Speaker, tomorrow, the eyes of the world will turn to Connecticut as the Special Olympics World Games open in New Haven. More than 7,000 athletes from 140 countries will compete in such sporting events as basketball, gymnastics, cycling, sailing, powerlifting, and golf.

Since the first World Games in 1968, the Special Olympics have highlighted the skill and determination of these very special athletes. Their dedication is inspirational and their skills impressive.

The people of my home State of Connecticut have opened their hearts and homes to athletes, coaches, and families from around the world. Every town in the State is hosting a delegation. These games are expected to draw thousands of international visitors, ambassadors, and heads of state. For the first time, the President of the United States will open these games. We owe our special thanks to Tim Shriver and former Governor Lowell Weicker, who have heightened the visibility of these 1995 World Games.

I look forward to the next 2 weeks—let the Games begin.

CALLING FOR A CONSTITUTIONAL AMENDMENT TO ABOLISH THE DEATH PENALTY

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. GONZALEZ. Mr. Speaker, I rise today to introduce a joint resolution proposing a constitutional amendment to prohibit capital punishment within the United States. I believe that the death penalty is an act of vengeance veiled as an instrument of justice. Not only do I believe that there are independently sufficient moral objections to the principle of capital punishment to warrant its abolition, but I also know that the death penalty is meted out to the poor, to a disproportionate number of minorities, and does not either deter crime or advance justice.

At a time when South Africa's highest court, in the first ruling of the new multiracial Constitutional Court, has just abolished the death penalty—on grounds that it is a cruel and inhumane punishment that does not deter crime but which does cheapen human life—as part of the post-apartheid quest for democratic government and a just society in that country, we should live up to no lower of a standard in our continuing effort to uphold democracy and justice in our own land.

Violent crimes have unfortunately become a constant in our society. Every day people are robbed, raped, and murdered. We are surrounded by crime and yet feel helpless in our attempt to deter, to control, and to punish. The sight of any brutal homicide excites a passion within us that demands retributive justice. We have difficulty comprehending that which cannot be understood. Mr. Speaker, we will never comprehend the rationale of violent crime, but the atrocity of the crime must not cloud our judgment and we must not let our anger undermine the wisdom of our rationality. We cannot allow ourselves to punish an irrational action with an equally irrational retaliation—murder is wrong, whether it is committed by an individual or by the State.

Violence begets violence. I cannot help but wonder if the vigilante executions that are becoming more frequent in our country, whereby citizens arm themselves and mete out capital punishment for crimes such as ''tagging'' as happened in California and recently in my own district in San Antonio, and knocking on one's front door and acting disorderly as happened in Louisiana, and numerous other incidents where property crimes are met with a lethal response, are a direct result of the atmosphere of violence embraced by our Federal and State governments as a proper response to problems. Indeed, I wonder whether the overall escalation of violence in our society perpetrated by criminals can be traced to the devaluation of human life as exhibited by our governments.

The United Nations Universal Declaration of Human Rights states, ''No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.'' The death penalty is torture, and numerous examples exist emphasizing the cruelty of the execution. Witness Jimmy Lee Gray, who was executed in 1983 in the Mississippi gas chamber. During his execution he struck his head repeatedly on a pole behind him and had convulsions for 8 minutes. The modernization to lethal injection serves only as an attempt to conceal the reality of cruel punishment. Witness the execution by lethal injection of James Autry in 1984. He took 10 minutes to die, and during much of that period he was conscious and complaining of pain.

Despite the obvious mental and physical trauma resulting from the imposition and execution of the death penalty, proponents insist that it fulfills some social need. This simply is not true. Studies fail to establish that the death penalty either has a unique value as a deterrent or is a more effective deterrent than life imprisonment. We assume that perpetrators will give greater consideration to the consequences of their actions if the penalty is death, but the problem is that we are not always dealing with rational actions. Those who commit violent crimes often do so in moments of passion, rage, and fear—times where irrationality reigns.

Rather than act as a deterrent, some studies suggest that the death penalty may even have a brutalizing effect on society. For example, Florida and Georgia, two of the States with the most executions since 1979, had an increase in homicides following the resumption of capital punishment. In 1984 in Georgia, the year after executions resumed, the homicide rate increased by 20 percent in a year when the national rate decreased by 5 percent. There can be no disputing the other evidence—murders have skyrocketed in recent years, as have State executions. The government cannot effectively preach against violence when we practice violence.

The empty echo of the death penalty asks for simple retribution. Proponents advocate that some crimes simply deserve death. This argument is ludicrous. If a murderer deserves death, I ask you why then do we not burn the arsonist or rape the rapist? Our justice system does not provide for such punishments because society comprehends that it must be founded on principles different from those it condemns. How can we condemn killing while condoning execution?

In practice, capital punishment has become a kind of grotesque lottery. It is more likely to be carried out in some States than others—in recent years more than half of the Nation's executions have occurred in two States—Texas and Florida. My home State of Texas led the Nation in 1993 with 17 executions, more than three times the number of executions in the State with the second highest rate. The death penalty is far more likely to be imposed against blacks than whites—the U.S. Supreme Court has assumed the validity of evidence that in Georgia those who murder whites were 11 times more likely to receive the death sentence than those who kill blacks, and that blacks who kill whites were almost 3 times as likely to be executed as whites who kill whites. It is most likely to be imposed upon the poor and uneducated—60 percent of death row inmates never finished high school. And even among those who have been sentenced to die, executions appear randomly imposed—in the decade since executions resumed in this country, well under 5 percent of the more than 2,700 death row inmates have in fact been put to death.

It cannot be disputed that most death row inmates come from poverty and that there is a definite racial and ethnic bias to the imposition of the death penalty. The statistics are clear, as 92 percent of those executed in this country since 1976 killed white victims, although almost half of all homicide victims during that period were black; further, black defendants are many times more likely to receive the death sentence than are white defendants. A 1990 report of the General Accounting Office found that there exists ''a pattern of evidence indicating racial disparities in the charging, sentencing, and imposition of the death penalty. * * * In 82 percent of the studies, race of victim was found to influence the likelihood of being charged with capital murder or receiving the death penalty.'' Similar statistics can be found in my area of the country with regard to individuals of Mexican-American descent; in fact, similar practices once prevailed with regard to women. The practice was to tell the murderer to leave town if he killed a Mexican-American or a woman, as the feeling was that the murder must have been justified. We may have moved beyond that point, but not by much. It is as much a bias in favor of the ''haves'' and at the expense of the ''have-nots'' as anything else.

Racial and ethnic bias is a part of our Nation's history, but so is bias against the poor. Clearly, the ability to secure legal assistance

and to avail oneself of the best that the legal system has to offer is based on one's financial status. The National Law Journal stated in 1990, ''Indigent defendants on trial for their lives are being frequently represented by ill-trained, unprepared court-appointed lawyers so grossly underpaid they literally cannot afford to do the job they know needs to be done.'' The American Bar Association has admitted as much.

The legal process has historically been replete with bias, as well. We have a history of exclusion of jurors based on their race; now, the Supreme Court has sanctioned the exclusion of multi-lingual jurors if witnesses' testimony will be translated—this is particularly significant in my area of the country, in San Antonio. Further, we have executed juveniles—children, actually, as well as those with limited intelligence. Only four countries besides the United States are known to have executed juvenile offenders in the past decade: Bangladesh, Pakistan, Iraq, and Iran. That's some company to be in.

There are moves on in Congress to speed up the execution process by limiting and streamlining the appeals process. But when the statistics show how arbitrarily the death penalty is applied, how can we make any changes without first assuring fairness? If the death penalty is a fair means of exacting retribution and punishment, then isn't fairness a necessary element of the imposition of capital punishment? There are no do-overs in this business when mistakes are made.

The imposition of the death sentence in such an uneven way is a powerful argument against it. The punishment is so random, so disproportionately applied in a few States, that it represents occasional retribution, not swift or sure justice. My colleagues, I implore you to correct this national disgrace. Nearly all other Western democracies have abolished the death penalty without any ill effects; let us not be left behind. Let us release ourselves from the limitations of a barbaric tradition that serves only to undermine the very human rights which we seek to uphold.

The evolution in thinking in this area has progressed in nearly all areas of the world except in this country, where the evolution halted and even began reversing itself in recent years as the Federal Government has moved to execute Federal prisoners and States such as Texas have accelerated State executions. But among our country's most highly-educated and high-trained legal specialists, the evolution has been restarted. Former Supreme Court Justices Lewis Powell and Harry Blackmun came to the conclusion in recent years that capital punishment constitutes cruel and unusual punishment. Congress should pursue the line of thinking espoused now by these legal scholars in recognizing that capital punishment is unconstitutional and that this should be declared in a constitutional amendment. I urge my colleagues to join me in this effort.

RESTRICTIONS ON TRAVEL TO NORTH KOREA NEEDED

HON. JAY KIM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. KIM. Mr. Speaker, I rise today to introduce legislation that would limit congressional travel to North Korea until the President certifies to Congress that North Korea does not have a policy of discrimination against Members and employees of the Congress in permitting travel to North Korea on the basis of national origin or political philosophy.

As I am the only Korean-American ever to serve in Congress and am also a member of the House International Relations Subcommittee on Asian and Pacific Affairs, Speaker of the House NEWT GINGRICH and International Relations Committee Chairman BENJAMIN GILMAN encouraged me to lead a special, bipartisan assessment mission to North Korea. This would be the first Republican-appointed congressional mission to North Korea in 40 years.

The United States Congress will be required to approve of any further assistance or technology transfers to North Korea. Congress will also play an important role in determining the pace and scope of future diplomatic and trade relations between Washington and Pyongyang. Therefore, it is important for Congress to have an accurate and complete assessment of the situation in North Korea conducted by a select group of its own Members. A dialogue with North Korea's leaders and a first-hand examination of the implementation of the recently achieved Agreed Framework regarding North Korea's nuclear developments would clearly benefit the congressional decisionmaking process and ensure that as accurate and complete information as possible would be available to Congress. Without question, the nuclear crisis on the Korean Peninsula is one of the most important national security concerns of the United States today.

Regrettably, the North Korean Government has rejected the dates I have proposed for this bipartisan mission. Initially, Pyongyang indicated that the dates I had proposed were inconvenient for the North Korean Government. Yet, North Korea invited a minority Democratic Member of Congress to Pyongyang for one of the same periods of time I had proposed. This incident coupled with North Korea's latest rejection confirms to me that North Korea is afraid of allowing me and this special delegation into North Korea.

I believe Pyongyang is afraid because I am of Korean origin and am fluent in Korean. I know the culture and the people. I would be able to talk directly to the people and accurately read the expressions on their faces. I would be able to see and understand things—some very subtle—that other Americans would miss. In other words, the North Korean regime knows it cannot mislead or fool me.

While I believe my national origin is, in large part, the reason for North Korea's rejection, Pyongyang has also cited my fair and legitimate questioning of some of North Korea's actions, including its human rights record. It is telling that North Korea has rejected this mission knowing that it has the endorsement of the new Republican leadership of the House of Representatives. Thus, I also believe that my political philosophy—a philosophy different from that of the Member who was invited to North Korea—was a factor in North Korea's decision. I have carefully chosen the words political philosophy because I am not convinced that party affiliation alone is a determining factor for North Korea. I am aware that the recent request of a ranking Democratic member of the Senate Foreign Relations Committee to meet with North Korean officials was also rejected. Many of his views about the situation in Korea are similar to mine.

Unfortunately, I do not believe that North Korea realizes that its policy of picking and choosing the Members of Congress with whom it will cooperate is perceived by my colleagues here in Congress as an insult to the United States and to the United States Congress. We cannot cede to North Korea the right to determine which Members of Congress should represent Congress in a bilateral dialog. All U.S. Representatives and Senators are equal in their respective Chambers. No one of us has more constitutional rights than the other. We cannot allow North Korea to create different classes of Members of Congress.

Furthermore, the way that the North Koreans have chosen to snub Congress should make us even more suspicious about Pyongyang's true level of sincerity towards their other interactions with the United States, including the commitments they claim to have made in the recent nuclear agreement. I can no longer see how some in the Clinton administration can be so confident that North Korea will comply in both letter and spirit with the recent nuclear deal when Pyongyang sends the opposite signal through its disgraceful treatment of Congress.

It is ironic that in his reply to me, the Minister-Counselor of the North Korean Mission to the United Nations in New York—the channel which is used to communicate with Pyongyang—claims that his country wants harmony and reconciliation between North Korea and the United States. As the only Korean-American in Congress, I am in the unique position to communicate best with North Koreans and assess the sincerity of this claim.

Yet, in the same letter North Korea rejects the very mission that the new Republican leadership in Congress has approved to explore this subject. Actions speak louder than words and North Korea's actions appear to be very illogical and self-destructive. It appears that North Korea has thrown away an exceptional opportunity to further the reconciliation process it claims to want.

Those of us closest to the Korean issue in Congress have patiently put up with North Korea's insulting behavior. But, enough is enough. North Korea is politically and economically bankrupt. Without question, Pyongyang needs better relations with the U.S. Congress far, far more than the Congress needs a dialog with Pyongyang. Thus, until the President can certify that North Korea has reversed its discriminatory policy towards Congress, the legislation I am introducing today would preclude any official congressional travel to North Korea. It would ensure that the U.S. Congress maintains the dignity and respect it deserves.

Mr. Speaker, I invite my colleagues to cosponsor this responsible legislation and join me in sending a strong, clear message to North Korea.

TRIBUTE TO PRESIDENT SOGLO OF BENIN

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. BURTON of Indiana. Mr. Speaker, I would like to express my support for the initiatives of the Government of Benin. Benin, a country the size of Pennsylvania with a population of 5 million, is located in West Africa on the Gulf of Guinea. It captured international attention when in 1991 it was the first African nation to democratically elect a head of state, President Nicephore Soglo, a former World Bank director and friend of the United States of America.

Over the last 5 years President Soglo and his administration have instituted a series of economic reforms intended to reduce debt, increase exports, control inflation, and foster growth in general. By 1992 Benin's economy began to respond and by the first quarter of this year, economic growth was evident. As a result of this economic turnaround, investment possibilities abound in many of Benin's industries, especially oil production and agriculture. Benin is clearly one African country setting out to disprove the notion that the continent is becoming marginalized.

One of the most important of Benin's economic reforms was the devaluation of its currency, the CFA franc, in 1994. As a member of the West African Monetary Union, Benin uses the CFA—French for African Financial Community—franc which is tied to and supported by the French franc and is fully convertible. The overvalued CFA franc had skewed the economy towards trade rather than investment which is necessary for growth. ''Finance & Development'' magazine stated in a June, 1995 article that, since the devaluation, member countries of the franc zone have made great strides toward economic recovery. The goal of the devaluation was to help member nations regain competitiveness by shifting resources from low growth sectors, often artificially protected, to sectors where the country enjoyed a comparative advantage. These objectives were largely met in Benin, as evidenced by the growth in GDP, limited inflation, and improved balance of payments.

Benin has numerous resource-based enterprises which offer many investment opportunities for American businesses. One of the most promising is oil and gas. An offshore petroleum field is located near Cotonou, the principal city in Benin, and 4 billion cubic meters of gas reserves were recently discovered in the Seme oil field. These discoveries have generated serious attention in the World Bank plans for a major natural gas trunk line from Nigeria to run west through Benin, Togo, and Ghana.

Recently, many American investment houses have started to see Africa as an economic area on the cusp of exploding growth, the last true emerging market.

Mr. Speaker, the U.S. Government must support all efforts of African nations like Benin to democratize and continue on the path of economic reform and growth. The Government of Benin's efforts will mark a new era not only in West Africa but in all of Africa.

THE FLAG IS THE SYMBOL OF OUR COUNTRY

HON. ENID G. WALDHOLTZ

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mrs. WALDHOLTZ. Mr. Speaker, the U.S. flag is the symbol of our country. It is proudly carried into battle, and it is the basis for our national anthem. It's more than a simple piece of cloth; it is the symbol of what we stand for as a nation.

Over the years, Congress has repeatedly attempted to pass legislation that would prevent desecration of our national flag. Each time, the public has expressed their overwhelming and enthusiastic support.

Unfortunately, and in my view incorrectly, the U.S. Supreme Court has ruled that burning the American flag is merely a form of free expression, and the Court overturned Congress' attempt to reflect the public's desire to protect this Nation's most treasured symbol. With that ruling, the Supreme Court left us with no alternative but to pass a constitutional amendment.

The Court's action left us with an ironic result: It is illegal to deface a mailbox or to mangle our currency—either act carries a criminal penalty—but it is not illegal to desecrate the flag. Personally, I am not comfortable with what that says about our values as a Government.

In the wake of the Supreme Court action, 49 States have passed resolutions calling on Congress to pass a constitutional amendment to protect our flag from desecration and send it back to the States for ratification. I would have preferred to resolve this issue with statutory language rather than through a constitutional amendment, but we have already attempted that. Congress is not able to pass a statute which we can guarantee will not be overturned by the Supreme Court.

Our action reflects the will of the American people to protect and preserve the most cherished symbol of this great Nation.

POLITICAL ADVOCACY WITH TAXPAYER DOLLARS

HON. ERNEST J. ISTOOK, JR.

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. ISTOOK. Mr. Speaker, please include the following remarks in the RECORD regarding ''Political Advocacy with Taxpayer Dollars.''

POLITICAL ADVOCACY WITH TAXPAYER DOLLARS VIOLATES THE RIGHTS OF ALL TAXPAYERS

(Testimony of Representative Ernest J. Istook, Jr., June 29, 1995, before the House National Economic Growth, Natural Resources and Regulatory Affairs Subcommittee)

It is time to end taxpayer funded political advocacy! Over 40,000 organizations receive over $39 billion in Federal grant funds directly. Preliminary examination of the problem makes it apparent that grant abuse is rampant and needs to be addressed with systemic reform. Systemic reform must not be targeted at any particular group nor any particular political philosophy but must allow the U.S. Congress to perform its fiduciary responsibility to the American taxpayer. That responsibility requires the Congress to track Federal Budget dollars to their usage point.

I feel strongly that these Federal dollars represent the hard work of many Americans who deserve the assurance that when they are compelled to pay taxes, that these tax dollars are being used appropriately. Using tax dollars for political advocacy not only violates the principles of free speech and free association. Just as the U.S. Supreme Court has ruled (Abood v. Detroit Board of Education, 1977) that compulsory union dues cannot be used to fund political activity, so, too, compulsory taxes should not be used for this purpose. The legislation several of us are working on is but one step, though a major step, in stopping some of the fraud, waste and abuse that plagues the Federal Budget.

The various attempts at addressing taxpayer-funded political advocacy problem have proven to be inadequate. Were this not the case the problem would not continue to be a significant problem. The IRS Code restrictions on many of the non-profit organizations and the Byrd amendment in 1990 have all proven to be inadequate. Though it is technically illegal to use taxpayer funds for lobbying, schemes have been created to circumvent the law. These include automatically sending a certain percentage of grant money to cover overhead for the lobbying arm, and subgranting funds to other organizations, in which case the audit trail ends. Sometimes the laws that exist are so vague and unenforceable that they are not satisfactory. An example of this is the lobby registration and reporting requirement for Congress. Lobbying is not defined in the law, so lobbyists only report time and expenses for time on Capitol Hill, not time spent in the office studying the issues, making phone calls to prepare for visits, etc. The Byrd amendment never defined appropriated funds, so funds are no longer considered appropriated after they've been deposited into the organization's checking account.

The goal is not and never should be to restrict free speech. Instead, the goal is to avoid the use of tax dollars to subsidize the private speech of those who have political connections or who rely on taxpayers' money to advocate their political views.

Upon examination of this problem, I feel the following principles must be put into law regarding the usage of Federal funds by Federal grantees:

a. The term ''lobbying'' is too narrow to be useful for this purpose. The broader term ''political advocacy'' should be used and defined under the law. This definition would extend to Federal grantees engaging in political campaigns, lobbying the legislative or executive branch agencies from the Federal to the state and local level, and engaging in efforts to influence general and specific public policy through confirmations, referendums or judicial action.

b. No federal funds should be used for political advocacy.

c. No grant funds should be used to provide support to other organizations who, in turn, conduct political advocacy.

d. No organization that receives a federal grant should, in turn, grant those funds to others, except as provided in the authorizing law that created the organization (i.e. the Institute of Peace, the Corporation for Public Broadcasting, etc.) Such grantees should be under the same obligation as if they received the Grant directly from the Federal government. Current law does not require this. This will not include state and local governments, but would include any private entity which receives federal grant funds, passed through to them by state or local governments.

e. Any Federal grantee should be subject to an audit, at the government's request, and must prove ''by clear convincing evidence'' that any funds used for political advocacy did not come from Federal funds. Grantees are expected to use ''generally accepted accounting principles'' (GAAP) in keeping records. This provision will not require any unusual accounting methods, and will deter, in fact, ''creative'' or otherwise lax accounting.

f. The federal dollar should be followed to its point of use. This will insure Congress is able to insure each taxpayer dollar is appropriately used for its intended purpose.

g. Information about all of these grants should be available to the general public.

CASE STUDY: THE NATURE CONSERVANCY

We have already heard testimony today about the Nature Conservancy's use of Federal taxpayer dollars to crush local opposition to a nature sanctuary. This action, even if it were authorized by Congress, violates the rights of the citizens of that county in Florida. The Nature Conservancy, from what we know in this case, used at least $44,000 from the Department of Commerce to National Oceanic and Atmospheric Administration (NOAA), plus $75,000 (most likely Federal funds) from other organizations' subgrants.

In the Nature Conservancy's ''NOAA Performance Report for the Quarter Ending September 30, 1993,'' they discuss 21 items, 19 of which are clearly political advocacy under the definition I expect to outline in my proposed legislation. Items included preparing testimony for people to testify before Congress and ad campaigns. Please notice their item 17, which states that they spent money for this effort:

Developed and directed plan to counter opposition's push for a county-wide referendum against the establishment of the Sanctuary. Recruited local residents to speak out against referendum at two Board of County Commissioners hearings. Organized planning conference call with members of the Center for Marine Conservation, the Wilderness Society, and the Nature Conservancy to discuss plan. Plan was successful in blocking referendum (a 3–2 vote), and generated many positive articles and editorials using many of the messages discussed in plan.

They blocked a public vote on their plan. This is raw political activity. It does not deserve a subsidy from the voters who they sought to silence.

The issue is not which organization was bigger, more organized, etc. I would be just as disturbed with any other group Federal grant dollars and using those dollars to crush local opposition to their members' goals.

We have the right to freely associate with those who espouse principles that we endorse. The key word here is ''freely.'' When tax dollars are used for political advocacy, this is not, by any definition, a free speech or free association.

FIRST AMENDMENT PROTECTION

Some opponents have a general misconception that it is unconstitutional to prevent organizations, especially non-profit organizations, from engaging in political advocacy with taxpayer dollars. Nothing could be further from the truth. It is, in fact, unconstitutional to permit recipients of federal funds from engaging in political advocacy with those dollars. In the case of Rob Jones University v. United States, the Supreme Court noted that, ''When the Government grants exemptions or allows deductions, all taxpayers are affected; the very fact of the exemption or the deduction for the donor means that other taxpayers can be said to be indirect and vicarious 'donors'.'' In 1977, the Supreme Court ruled in Abood v. Detroit Board of Education that it was unconstitutional to require teachers to contribute to a union where the dues were used to support ideological causes the teacher opposed. The court said that taxpayers should not be required, either directly or indirectly, ''to contribute to the support of an ideological cause [they] may oppose.'' Where recipient organizations receive both a tax exemption and government funding and then use government funds to engage in political advocacy, it is clear the government, and hence the taxpayers, are both supporting the political views advocated by the recipient organization. The Supreme Court noted several years ago in First National Bank of Boston v. Bellotti that where governmental action ''suggests an attempt to give one side of a debatable public question an advantage in expressing the views to the people, the First Amendment is painfully offended.''

Thus the right of free speech also includes the right not to speak. It includes the right not to support causes or ideologies with tax dollars. No taxpayers should be compelled to support ideological causes or political points of view with which the taxpayer disagrees. This is very important because taxes compulsory, not voluntary. Thus the federal government has a special duty to protect free speech and prevent, whenever possible, the infringement of the free speech of all taxpayers.

This position is clearly supported by the Supreme Court. On May 23, 1983, the United States Supreme Court unanimously upheld the right of the Federal government not to subsidize the lobbying activities of private, nonprofit, tax-exempt organizations. In the case of Regan v. Taxation with Representation of Washington, 51 U.S.L.W. 1588 (1983), Taxation with Representation of Washington (TWR), a nonprofit corporation organized to promote what it conceived to be the ''public interest'' in the area of federal taxation, applied for tax-exempt status under Section 501(c)3 of the Internal Revenue Code. The IRS denied the application because a substantial part of the organization's activities consisted of lobbying activity. TWR sued based on First amendment and equal protection under the fifth amendment. The court rejected TWR's contention that the government may not deny their application for tax-exempt status. The Supreme Court stated:

Both tax exemptions and tax-deductibility are a form of subsidy that is administered through the tax system. A tax exemption has much the same effect as a cash grant to the organization of the amount of tax it would have to pay on its income. . . . Congress has not infringed any First Amendment rights or regulated any First Amendment activity but has simply not chosen to subsidize TWR's lobbying out of public funds. . . . A legislature's decision not to subsidize the exercise of a fundamental right does not infringe on that right and thus is not subject to strict scrutiny. It was not irrational for Congress to decide that tax-exempt organizations such as TWR should not further benefit at the expense of taxpayers at large by obtaining a further subsidy for lobbying. . . . We have held in several contexts that a legislature's decision not to subsidize the exercise of a fundamental right does not infringe the right. . . . It is also not irrational for Congress to decide that, even though it will not subsidize substantial lobbying by charities generally, it will subsidize lobbying by veterans' organizations. . . . Congress is not required by the First Amendment to subsidize lobbying. . . . Congress—not TWR or this Court—has the authority to determine whether the advantage the public would receive from additional lobbying by charities is worth the money the public would pay to subsidize that lobbying, and other disadvantages that might accompany that lobbying.'' (Regan v. TWR) 461 U.S. 540 (1983)

There is no attempt in our proposed legislation to suppress or limit the First Amendment rights of recipient organizations. There is no ideological classification to apply this to some groups while exempting others. That would not be right. The same standards must apply to all organizations, regardless of their place on the political spectrum. Potential federal grantees would remain free to engage or not to engage in political advocacy as they see fit. I repeat, potential federal grantees would remain free to engage or not to engage in political advocacy as they see fit. They are simply prevented from receiving a tax-paid subsidy for their political advocacy.

Our legislation also should not be compared to the anti-lobbying bill in the 103rd Congress. There is no attempt in this bill to curb or restrict grass-roots lobbying organizations. Nor is there a focus on lobbying as a whole. The touchstone, the trigger for this act, and its provisions, would specifically apply to federal grantees engaging in political advocacy, directly or indirectly, with those funds, thus violating the free association rights of U.S. taxpayers.

LIMITED PUBLIC ADVOCACY

To be sure, many individuals, organizations and businesses in this country spend some of their funds on political advocacy. This is a normal activity and should not be suppressed. After all, we live in a civil society that depends upon democratic participation in the political process. Thus, the fact that an entity engages in political advocacy should not automatically bar the receipt of federal grant money. However, government oversteps the bounds of neutrality when it begins to award grants to selected entities that have as one primary purpose the conduct of political advocacy.

The First amendment guarantees the right to petition the government for a redress of grievances. But it does not require the government to pay you for it. After careful review, I have found that a reasonable threshold is when organizations spend 5% or more of their annual expenditures to conduct political advocacy. This provision is similar to the IRS 501(h) safe-harbor provisions of the IRS Code for non-profit organizations. This code provision prohibits a wide variety of political activity over $1,000,000 in expenditures. While the 5% threshold is seemingly small, such a percentage is, in fact, quite significant: First, in this modern information age, with cheap and high-speed means of communication, a little money can go a long way; and second, because of the fungibility of cash, each federal dollar received by a grantee frees up more private dollars for political advocacy, thereby leading to a growing amount of indirect government support for political advocacy.

CONCLUSION

Provisions of the legislation we are proposing is designed to protect the First amendment rights of all Americans and, at the same time, fulfill the trust that voters in this Nation have given members of Congress. As the Supreme Court has stated, ''Congress is not required by the First Amendment to subsidize lobbying. . . . Congress—not TWR or this Court—has the authority to determine whether the advantage the public would receive from additional lobbying by charities is worth the money the public would pay to subsidize that lobbying, and other disadvantages that might accompany that lobbying.'' (Regan v. TWR) Congress is charged with insuring taxpayer funds are spent properly, for the public good. The legislation we are crafting has been carefully designed to keep the compliance burden as

low as possible, while insuring that the rights of all Americans are protected.

I invite public comment on the ideas presented in my testimony and regarding our proposed legislation.

WORLD FOOD DAY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. GILMAN. Mr. Speaker, for 11 years the U.S. National Committee for World Food Day has offered a teleconference on critical food policy issues to colleges and universities in the United States and through the facilities of the U.S. Information Agency WorldNet service to embassies and institutions throughout the Western Hemisphere. In 1993 and again in 1994, WorldNet also made it possible for the telecast to be received in Africa and Asia.

The World Food Day program dealt with the increasing use of water and the decreasing quality of the supply in nearly all world regions. Abundance is giving way to public policy decisions on resource allotment and cost sharing. There is an urgent need for the international community, national governments and citizen organizations to make decisions relating to the competing uses of the environment, agriculture and human consumption needs.

I want to thank the U.S. National Committee for World Food Day and the Committee's national coordinator, Ms. Patricia Young, for their efforts in bringing this important subject to public attention and in helping prepare for the international conference. I want to thank the U.S. Agency for International Development for their support and technical assistance in the organization of the World Food Day Teleconference. I also want to praise USIA WorldNet for a job well done in carrying the program throughout Latin America and the Caribbean and to additional sites in the rest of the world.

Mr. Speaker, I urge my colleagues to read the exclusive summary of the World Food Day Teleconference, and I wish to insert it in the RECORD at this point.

1994 TELECONFERENCE EXECUTIVE SUMMARY

The eleventh annual World Food Day Teleconference was broadcast from the studios of George Washington University Television in Washington, DC on October 14, 1994. It linked a distinguished international panel of experts on food, water and agriculture to more than 1,000 receive sites in the United States and the Western Hemisphere. There were also a number of passive sites in Asia and Africa. The theme for the teleconference was ''Sharing Water: Farms, Cities and Ecosystems.''

After years of growth since the World Food Day teleconference series began in 1984, the program is believed to be the largest, single development education broadcast ever organized in the U.S. The Spanish-language broadcast, involving simultaneous interpretation from English, began in 1990 with a pilot project in Mexico through the cooperation of the Instituto Tecnológico de Monterrey, which relayed the broadcast in Spanish to its 26 national campuses. Outreach to the rest of Latin America and the Caribbean was initiated in 1992 with the support of the UN Food and Agriculture Organization and the U.S. Information Agency WorldNet system.

World Food Day, held for the first time in 1981 and marking the anniversary of the founding of FAO in 1945, has captured the imagination of people throughout the world. In the U.S. the day is observed in virtually every community in the country, with especially strong support in schools, worship centers and food banks. The U.S. National Committee for World Food Day has grown in membership to more than 450 private voluntary organizations and works directly at the grassroots through more than 20,000 community organizers.

Serving on the teleconference expert panel in 1993 were José Felix Alfaro, international consultant on water resource planning, Sandra Postel, director of the Global Water Policy Project in Cambridge, Massachusetts, Rita Schmidt Sudman, executive director of the Water Education Foundation in Sacramento, California and Hans W. Wolter, chief of the Water Resources Development and Management Service of the UN Food and Agriculture Organization. The moderator was Alex Chadwick of National Public Radio.

THE TELECONFERENCE CONCEPT

In the U.S. the World Food Day teleconference has become a model for development education on global issues, in part because of the enormous growth in interactive site participation and the additional millions of viewers accessed through collaborating networks and in part because of the year-around use of the program's study materials and the teleconference videotape itself in college-level courses in a great variety of disciplines. The ''internationalization'' of the program since 1990 has further increased its impact and was broadly welcomed by participating colleges and universities in the U.S. The main components of the teleconference package are: (1) a Study/Action Packet of print materials prepared by the non-governmental U.S. National Committee for World Food Day and distributed to all participating schools and other study centers (and distributed in Spanish to the participating sites in Latin America); (2) the three-hour satellite telecast on World Food Day composed of three hour-long segments for expert panel presentations, site consideration of the issues and a site-panel question and answer interchange; (3) publication of the teleconference report including written responses by panelists to questions that were not taken up on the air for reasons of time; and (4) analysis by selected site organizers after each year's program to make recommendations for the year to follow. All of the main teleconference components are designed as college-level curricular aids.

THE STUDY/ACTION PACKET

The Study/Action Packet is designed as an integral part of the teleconference package, but also serves as a separate study resource for groups planning World Food Day observances but not participating in the telecast. More than 1,500 copies of the packet were distributed on request in the months prior to the broadcasts to colleges, other institutions, community study groups, schools and individuals. All or part of the packet materials were reproduced by many of the participating sites.

Again in 1994 the Study/Action Packet was translated into Spanish and reprinted by the FAO Regional Office for Latin America and the Caribbean and distributed throughout the region by the network of FAO country representatives. Copies of the English version were also distributed to U.S. embassies on request.

The 1994 packet was developed by the U.S. National Committee for World Food Day with the cooperation of several institutions and organizations which contributed material from their own research and analysis. The teleconference theme, exploring the growing scarcity of water and conflicts over the division of available supply among agriculture, industry, urban needs and the environment, was discussed by panelists in a global context, but with special emphasis on problems and needs of North and South America. Water issues facing the western part of the United States were featured, and for the fourth year one of the invited international panelists came from Latin America.

This Study/Action Packet is not intended to be a comprehensive analysis of global water issues but as an overview and introduction to the theme, special viewpoint papers included in the packet and donated by their authors came from Sandra Postel, author of the book ''The Last Oasis,'' B. Delworth Gardner and Ray G. Huffaker from Brigham Young University in Utah and the University of Tennessee, Matias Preto-Celi of the FAO Regional Office for Latin America an Professor Nnamdi Anosike of Rust College in Mississippi. Also included was a special interview on western water issues with Secretary of the Interior Bruce Babbitt.

The packet also included a special 24-page Manual for Community Action on Water Policies and Programs. This was the eleventh study/action packet prepared in conjunction with the teleconference series and the fifth to be undertaken directly by the U.S. National Committee for World Food Day. Previous packets were prepared by the Center for Advanced International Studies at Michigan State University and by the Office of International Agriculture at the University of Illinois. Funding for the 1993 packet was partially provided by the Agency for International Development. General funding for the teleconference program was provided by the U.S. National Committee for World Food Day, FAO and Covenant Presbyterian Church of Scranton PA.

TELECONFERENCE OUTREACH

The WFD teleconference has grown each year since it was begun in 1984. Teleconference impact continued to grow in 1994 in at least three other ways. For the ninth year the program was used by professional organizations for continuing education credits. These credits (or professional development units) were offered again in 1994 by the American Dietetic Association, the American Home Economics Association and through the Catholic University of America to clergy and social service professionals. Beginning in 1989 there has been a steady rise in teleconference participation by high school students, initiated by both individual schools and school systems. The audience of home television sets accessed by cooperating networks is believed to be in the millions, reached through the Catholic Telecommunications Network of America, AgSat, Vision Interfaith Satellite Network, PBS Adult Learning Satellite Service and individual PBS and cable stations.

THE TELECONFERENCE BROADCAST SUMMARY

The telecast opened with questions from the moderator to each member of the panel in the area of their special interest or expertise. Dr. Alfaro was asked to judge the gravity of water problems in Latin America. He replied that water concerns are very widespread in the region in large part owing to the rapid human migration from rural areas into cities and the consequent overwhelming of water services and infrastructure. Professor Postel was asked her views on problems of irrigation. She pointed out that while only 16% of world cropland is irrigated this land produces more than a third of all the world's food. Since population continues to rise very quickly, she said, it is a cause of major concern that the amount of irrigated land per capita has been slowly declining for

the past decade. She also noted that much of current irrigation is unsustainable over the long term because it is coming from pumping groundwater (water from wells rather than river diversion) faster than it is being replenished by nature.

The moderator then noted that the state of California has a special relevance in a discussion of water use because of its enormous agricultural production in a semi-arid climate through very large water diversion projects. Rita Sudman noted that state's past achievements but said that a new situation is evolving in which agriculture is under pressure to relinquish part of its water supply in order to meet needs of urban areas and the natural environment. California, she added, could in a sense be a laboratory for much of the world in its search for solutions to water sharing. Dr. Wolter was asked, as an official of the UN Food and Agriculture Organization, if water problems could slow the growth in food production globally. He replied that there exists very serious water problems regionally, and noted that about 230 million people live in countries with acute water shortage. However, he added, water problems in most regions can be solved by new supplies and/or improved management.

The panel as a whole then took up the question of whether water should be considered as a ''good'' in the economic sense, with a unit market value. Dr. Wolter began the discussion by noting that a) water is an economic commodity in the sense that it serves production purposes, but that it also has social and even cultural characteristics that make it difficult to treat only as an economic good; and b) that there are further characteristics of water that make it different from other resources—that it is extremely bulky, difficult to store and transport and, in the private sector, difficult to establish property rights to it.

Prof. Postal said there is not doubt that water is undervalued as a resource because it has always seemed plentiful and that market allocation in some ways can bring efficiencies in water use. However, she noted, the market cannot meet all the social needs for water and, in particular, intervention in the market by governments will be required to protect the natural environment.

Furthering this point, using California as an example, Ms. Sudman noted a) that while people like to say that water is free it really isn't because in one way or another the public pays the cost of infrastructure, distribution and purity maintenance; and b) that the simple ability of cities to pay for water does not answer the problems of rural communities. The need now, she said, is to work out systems of sharing and balance, but that this is not always easy or the solutions clear.

Dr. Alfaro noted that water marketing can be useful up to a point, but that there would be very real political and equity problems in a pure market system. In Latin America, he noted, there are millions of small, subsistence farmers who do not have the means to pay for the water they need for their crops. Ms. Postel added that if water prices are disconnected from crop prices this adds another destabilizing factor to agriculture. However, she added, the high cost of pumping water in areas of the U.S.—where water rights are not a central issue—has brought about great improvements in efficiency.

Dr. Wolter noted that before markets can play a normal role there has to be an allocation of water rights, and that this does not exist in most countries where there is no clear ownership and very few statistics on resource availability and use. FAO, he added, is helping these countries to reform their policies and institutions. Ms. Sudman noted that there is a further complication because farmers can sell rights to surface water and then meet their own needs by increased pumping of groundwater which is not a solution over the long term. Rights to groundwater, she added are much less well established by law. Dr. Alfaro noted that the point of irrigation is to increase production, but that more is required than water and that poor farmers are not able to take part in the productivity gains. There is, therefore, the danger, he said, that water will be one more production factor going to rich farmers but not to poor. Dr. Wolter noted that this does not have to be the case, that in Bangladesh, for example, the introduction of small and cheap pumps to tap groundwater, which is plentiful there, has led to competitive water marketing that is serving the very small holders.

The moderator then asked the panel to consider future problems of water quantity and quality to meet human needs.

Ms. Postel said her statistics and projections point to a worsening situation in much of the world. She noted that 27 countries already live with severe water shortages, but that this number could jump to 40 countries in the coming years and this will mean more competition for water and then for food. Dr. Wolter noted that most of the countries in water scarcity exist around the Mediterranean Sea and that generalizations may not be valid elsewhere. Africa, for example, has a vast amount of unutilized water capacity and there could be a period of intensive investment in water diversion and dam construction ahead. Efficiency will be very important, he said, but all options of supply and management need to be considered.

On the issue of water quality in food production, Dr. Alfaro said that quantity and quality are part of the same problem. Nearly 30% of all irrigated cropland is now affected by waterlogging or salinization, he said. In part the solutions to this are technical, such as better drainage, but in part they can be cultural, for example where people go on raising rice in very light soil more suitable to other crops. Cultural, political and even religious regimes can complicate introduction of technical solutions, he said.

The panel then took up the situation of water for urban systems and drinking water. Prof. Postel noted that only about 8% of all water used is for cities, but that this 8% is difficult to supply, store, treat for contaminants and distribute. It is also difficult and expensive to collect and treat waste water before it is returned to the environment. With populations growing and big cities growing even faster, she said, all these problems are multiplying. And, she noted, according to UN estimates there still are more than a billion people who don't have access to safe drinking water.

Dr. Wolter noted that the International Decade on Safe Drinking Water and Sanitation has yielded some interesting results. Conditions in rural areas have improved very rapidly, but not the situation in the cities where infrastructures have not kept pace. Planners and governments need to take a more integrated approach and be more aware of the ramifications of water intervention both upstream and downstream. However, he added, these are policies of governments and the UN agencies can only offer advice when asked.

The moderator then asked the panel to consider which sectors of the population might be most affected by new water policies. Ms. Sudman noted that in California there is no doubt that agriculture will be the sector most affected since the farmers have control of about 80% of all water taken for human use. The great water projects were built in the 1930s and 1940s primarily to improve agriculture, and the farmers signed contracts for 40 years of water supply. Now that these contracts are running out, society's values have changed and people are saying we need to give less to farmers and more to protect fish and birds. About 12% of formerly agricultural water is now being diverted back into rivers and streams to protect the environment. That has hurt farmers, she said. But most people think it is the right thing to do.

Prof. Postel described the need for a ''water ethic.'' In the past, she said, we simply projected demand and tried to ensure that the supply could be there for human purposes. A ''water ethic'' implies a recognition of water ecosystems which are vital in themselves as well as to human needs and would be protected as a first priority. Ms. Sudman added that while this is what California is now trying to accomplish there is a gap in knowledge of exactly how much water is needed to achieve each purpose. If the goal is to double the fish population, can that be done by just adding more water to stream flow and how much more? We don't yet know, she said.

Dr. Alfaro, speaking as a devil's advocate, noted that the U.S. is a very rich country, but that such care of the environment may not be a logical priority of a poor society. There, he said, where there are no food stamps, the top priority for the poor is food to eat. Prof. Postel said that countries could not wait for environmental protection until poverty problems are solved and a certain level of development achieved because unchecked destruction of the environmental systems lead to the loss of resources on which jobs for people depend. Dr. Walter suggested that there are, in fact, conflicts between development and environmental protection and answers will be complicated. Different countries face different problems and difficult choices, he said, and we can't impose our values on them from the outside.

At the close of the first hour, the moderator asked Prof. Postel whether the world would have ample water resources if they are managed sustainably. She replied that a part of the problem today is that an important share of our food production and water use is not sustainable over the long term. For example, groundwater is being pumped out far faster than it is replenished by nature. First, as water becomes scarce it grows more expensive to pump so food becomes more expensive too, and second, the reduced supply in the ground will become salty. At this point in time, she said, we need to be much more concerned with managing our water demand rather than increasing our supply—learning to do more with less.

THIRD HOUR QUESTIONS AND ANSWERS

As in previous years, the third hour of the teleconference program was devoted to questions directed to the panelists by the participating sites. All questions received were answered either on the air during the third hour segment or by the panel members in writing afterward. These written answers are part of the teleconference report. Questions were received from Canada, the U.S., Latin America and the Caribbean. Subjects in which there tends to be the greatest interest among the participating sites included: how water marketing might affect poor farmers and poor countries; what kind of system could be devised that would adequately maintain the natural environment and still leave water for human needs; how is sustainable water used possible if population continues to increase; what kind of incentives are there to encourage efficiency in water use; what are the trade-offs in poor countries between environmental protection and industrialization and is it possible to avoid the conflict; and, who should manage water markets, governments or private institutions.

Panel responses to all these questions varied, sometimes fundamentally, but there was general agreement on three points: (1) that governments and the international support community now recognize the seriousness of water problems; (2) that answers are necessarily complex both because of the nature of the resource and the conflicting user demands; and (3) that there is still time for most countries and regions to adjust and modernize their water policies before a crisis occurs, but that action is necessary.

BRING TELEMEDICINE TECHNOLOGY TO THE AMERICAN PEOPLE

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. WYDEN. Mr. Speaker, the House will consider H.R. 1555, the Communications Act of 1995 after the Fourth of July district work period.

If done properly, telecommunications legislation will open the doors to radical advances in technology for our constituents. In reshaping America's telecommunications laws, the Congress must consider as many potential applications of telecommunications technology as possible. After all, it's been 60 years since the last rewrite to telecommunications law.

During Commerce Committee consideration of H.R. 1555, the Communications Act of 1995, I raised the issue of telemedicine in an effort to expand the use and development of this exciting health care technology. Telemedicine is a diverse collection of technologies and clinical applications. The defining aspect of telemedicine is the use of electronic signals to transfer information from one site to another. Telemedicine's potential is immense; including for rural care, emergency care, home care, medical data management, and medical education.

I offered and withdrew an amendment to allow licensed physicians in one State to conduct consultations with licensed health care practitioners in another State. I withdrew the amendment at the request of Members who sought additional time to explore the issue with the objective of crafting a bipartisan floor amendment.

Bipartisan discussions continue today. It remains my objective, working with colleagues from both sides of the aisle, to produce bipartisan legislation to bring telemedicine's many benefits across State lines to the American public.

I call the attention of my colleagues to the report printed below titled, "Telemedicine and State Licensure." The report outlines current problems facing telemedicine and the need for a bipartisan solution.

H.R. 1555, the Communications Act of 1995 is our opportunity to free telemedicine from the regulatory morass which threatens to keep this technology from the American people.

THE AMERICAN TELEMEDICINE ASSOCIATION—TELEMEDICINE AND STATE LICENSURE

INTRODUCTION

The primary purpose of telemedicine is to give all citizens immediate access to the appropriate level of medical care as disease or trauma requires. Currently, each state must license each physician or dentist who desires to practice medicine within its borders. This mode of licensure, while appropriate for practices limited by state boundaries, unduly constricts the practice of telemedicine. As a result, medical services today stops at state boundaries. American consumers are blocked from accessing medical care available in other states absent their ability to travel away from their own homes and communities.

The challenge facing all concerned with advancing medicine, and the sincere intent of our effort, is to preserve the credentializing and monitoring efforts of each state while providing instant and immediate access to appropriate levels of care where not otherwise available.

THE CURRENT STATE OF PHYSICIAN LICENSURE IN THE UNITED STATES

In some states, there are limited exceptions to the rule that a physician or dentist must possess a license in each state to which he practices medicine. Statutory ''consultation exceptions'' allow an out-of-state physician or dentist to enter a state to see a patient at the behest (and in the presence) of a locally licensed physician or dentist. However, consultations are often required to be limited in duration, and a number of states which possess them are acting to close them for telemedicine practitioners. In 1995, Colorado, South Dakota, and Texas have considered amendments to their consultation statutes prohibiting out-of-state telemedicine practitioners from ''entering'' without being licensed in their state. Utah repealed its consultation exception effective in 1993, and the Kansas Board of Healing Arts passed a regulation (which conflicts with its statutory consultation exception) which requires out-of-state telemedicine practitioners to be licensed in Kansas.

Additionally, a number of states prohibit out-of-state consultants from establishing regularly used hospital connections. If consultants cannot use telemedical facilities at out-of-state hospitals, this limits the availability of specialized healthcare to underserved areas. The ''consultation exceptions'' are simply not useful or dependable for the future of telemedicine. They are easily amended to exclude telemedicine practitioners, they require the presence of a locally licensed physician (which may not always be possible), and only one-half of the states possess exceptions broad enough to be used by telemedicine consultants.

While some have argued that the distant patient is ''transported'' to the physician or dentist via telecommunications, this is a weak legal argument unlikely to stand up in trial. It is instead probable that a majority of state courts would find that a telemedicine practitioner is practicing medicine in the patient's state. If the telemedicine practitioner is not licensed in the patient's state, this would have an extremely negative impact upon the physician's malpractice liability, malpractice insurance coverage, exposure to criminal prosecution, and potential loss of licensure in his home state as well as remedial legal recourse for an injured patient.

Licensure by reciprocity and licensure by endorsement have long served physicians or dentists who wished to be licensed in two or three states. However, reciprocity and endorsement fall short of the needs of physicians or dentists practicing via a telecommunications network. Today, reciprocity is rarely used, and licensure by endorsement still requires that applications, personal interviews, fees, pictures, school and hospital records, and even letters from locally licensed physicians or dentists be submitted to each state where a license is desired. Each state's requirements are minutely different, and the expense and time involved in receiving licensure by endorsement in more than one or two states makes it prohibitive, if not impossible, to achieve.

IS INDIVIDUAL STATE LICENSURE REQUIRED?

The Tenth Amendment of the U.S.Constitution reserves to the states the power to protect the health and safety of state citizens, hence the ability of the states to regulate and license healthcare providers. Almost every state statutorily defines the practice of medicine, and a typical statute reads:

''The practice of medicine means . . . to diagnose, treat, correct, advise or prescribe for any human disease, ailment, injury, infirmity, deformity, pain or other condition, physical or mental, real or imaginary, by any means or instrumentality.''

It appears that despite the presence of a primary/referring physician, the physician consulting via telemedicine who attempts to diagnose the patient is practicing medicine where the patient is located. The phrase ''by any means or instrumentality,'' while not common to all states, frequently appears in state definitions. Courts would determine that telemedicine was the ''instrumentality'' used to reach a diagnosis, and find that the state definitions bring telemedicine consultants under their jurisdiction. States guard their power to regulate for health and safety purposes, and the U.S. Supreme Court has upheld their ability to do so.[2] Therefore, it is unlikely that state courts would surrender jurisdiction over an out-of-state physician or dentist who practiced medicine via telecommunications on a patient located in their state. Courts will find that the medicine was being practiced where the patient was located, and therefore the physician or dentist should have been licensed in the patient's state. Such a finding would have a chilling effect on telemedicine, since licensure cannot be obtained in every state by every specialist who participates in even one consultation.

The means for attaining these goals are to have the patient under the care of a physician licensed in the same state of residence but allowing consultative evaluations of the patient by specialists licensed in another state. Other health care professionals, such as physician assistants, must be under the supervision of a licensed physician.

IS INTERSTATE TRANSMISSION OF TELEMEDICINE REQUIRED?

Just as the technology for the transmission of sound and images has witnessed revolutionary change, so too has medicine. These advances in telecommunications and medicine have made advanced medical care available where not thought possible before. Today, there are compelling needs to use interstate transmission of telemedicine from medical, social welfare, and economic perspectives:

The unpredictable immediacy of eruptions of disease or trauma may command the services of unpredictable types of specialists requiring licensure reciprocity in all 50 states. Epidemic outbreak of disease is not limited to state boundaries. The interstate mobility of specialty expertise is needed throughout the United States to meet the demands for combating injury or illness wherever and whenever it may occur.

Medicine has witnessed the emergence of super-specialized medical care centers in numerous critical areas. These centers are located in regional tertiary care facilities serving multi-state areas. Receiving medical attention through these centers currently requires the transport of most referred patients out of state. In addition, the lack of proper recuperative care in their home community after a patient returns home has prohibited the patient from returning home sooner. The development of telemedical

links to local primary care facilities will enable many patients to remain in-state under the primary responsibility of physicians or dentists licensed in their home state. The development of telemedical links to specialty care centers can reduce the cost of transport and can lead to substantial reductions in the costs of patient care.

Developing metropolitan-wide systems of care for many cities also requires crossing one or two state boundaries. There are 25 major metropolitan areas in the United States that include more than one state. In each of these areas, state licensing requirements effectively limit the ability of physicians or dentists and other health care practitioners to serve the health care needs, via metropolitan wide telemedical systems, of the population base residing in their own communities. This limitation can lead to great disparities in access to health care due to the consumer's place of residence.

The widespread shortage of health professionals in many parts of rural America has long been recognized as a critical public policy issue. In many cases, access to health care could be greatly improved with the development of telemedical links with health facilities located in nearby states.

CONCLUSION

Statutes are being considered among the states which would require out-of-state physicians or dentists treating patients across state lines via telecommunications to possess licenses in the state ''entered.'' Already in the vast majority of states the telemedicine practitioner would be considered to be practicing medicine upon a patient located there, thus providing the patient's state with jurisdiction over any malpractice action. Additionally, malpractice insurance coverage is generally predicated upon the physician being licensed where he practices. In other words, a physician sued for malpracticing via telemedicine in a state where he is not licensed might find himself without coverage, as well as responsible for his own defense costs. Failure to possess a state license would be used to establish negligence upon the part of the consulting physician. Criminal prosecution for practicing without a license could result, and the physician's home state could institute disciplinary action against him for his actions in the distant state. Telemedicine possesses incredible potential to increase healthcare accessibility, but is severely hampered by legal impediments of which licensure is one of the most obvious. Fortunately, licensure problems have the greatest potential to be alleviated by the passage of statutes aimed at addressing these issues.

Emerging from these careful considerations is the need to preserve the credentializing and monitoring efforts of each state while providing instant and immediate access to appropriate levels of care where not otherwise available. Such actions should allow for immediate response to instances of disease and trauma while securing for each state and its citizens the continuance of the credentializing and monitoring of quality within its boundaries with additional specialized back-up as needed.

FOOTNOTES

[1] ALA. CODE §34–24–50 (1975).

[2] *Geiger* v. *Jenkins*, 316 F.Supp. 370 (N.D. Ga. 1970), aff'd, 401 U.S. 985, 91 S.Ct. 1236, 28 L.Ed. 2D 525 (1971).

CONFERENCE REPORT ON HOUSE CONCURRENT RESOLUTION 67, CONCURRENT RESOLUTION ON THE BUDGET, FISCAL YEARS 1996–2002

SPEECH OF

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 29, 1995

Mr. OBERSTAR. Mr. Speaker, I rise in opposition to the conference report on the budget resolution for fiscal year 1996 and to delineate for my colleagues the specific impacts this budget resolution is likely to have on the Federal Aviation Administration.

I say ''is likely to have'' because the conference report does not spell out the details of the cuts proposed for the FAA budget; but, given the general numbers and spending targets set down in the budget agreement we can calculate what the effects will be on specific FAA programs, such as the agency's new ''zero accident'' goal.

As ranking member of the House Aviation Subcommittee, I want all my House colleagues to understand the critical mission of the FAA. This Agency manages the world's largest air traffic control system, through which move half of all the 1 billion passengers who travel worldwide every year by air. They operate the Air Traffic Control system 24 hours a day, 365 days a year, handling, on average, two flights every second.

On an average day, FAA safety and security professionals will conduct nearly 1,000 inspections on pilots, planes and airports, ensuring that they remain airworthy and safe.

FAA maintains over 30,000 pieces of complex safety equipment and facilities across this Nation, operating at a reliability factor of 99.4 percent—a safety record envied by the rest of the world.

FAA issues more than 1,000 airport grants annually to improve airport safety and infrastructure.

FAA conducts 355,000 inspections annually to enforce safety standards and to issue certificates and licenses for aviation products and operators. FAA takes more than 12,000 enforcement actions each year.

The FAA has taken its share of cuts in the last 2 years as its contribution toward deficit reduction: FAA has cut 5,000 employees since 1993 for a current total of 48,000 employees. Of that number 36,000 have direct hands-on involvement in the ATC system, which includes 14 of the 15 busiest airports in the world.

In this era of deregulation, with extraordinary growth in both passengers and air traffic operations, we have seen a growth of 6 percent in air traffic during the last 2 years as the airlines have recovered from the serious economic decline and $12 billion in losses of 1990–92. But while air traffic has jumped 6 percent these last 2 years, the FAA budget has suffered a real decline of 6 percent, which translates into a $600 million cut.

This Budget Resolution Conference Agreement chops an additional $10 billion from transportation spending, which if spread, as expected, to the FAA will jeopardize the safety and efficiency of the Nation's aviation system.

Under this budget resolution, FAA's ability to improve weather and safety equipment and prevent accidents would be compromised.

Introduction of Global Positioning Satellite navigation technology would be delayed at least 5 years, costing airlines millions of dollars a year in lost efficiency.

The ability of the aviation security system to maintain its vigilance against domestic and international terrorism would be cut by one-third.

FAA's obligation to certify new aircraft engines and parts would be greatly compromised and might even have to be contracted out to private interests which, in my judgment, clearly is not in the best interest of safety.

The weather services to general aviation and to commercial aviation provided through the Nation's Flight Service Stations would be greatly impaired as FSS and control towers would be closed, costing jobs and air traffic services to hundreds of communities in all 50 States, and delays to an estimated 105,000 flights annually at an estimated cost to carriers and passengers of more than $2.3 billion.

I am just touching the tip of the iceberg on the impact of these cuts projected out over the next several years for the FAA as a result of this budget resolution.

The dedicated professionals of the FAA deserve better. They deserve our full support for full funding out of the Aviation Trust Fund to maintain our air traffic control system at its highest level of safety and efficiency.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1996

SPEECH OF

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 28, 1995

Mr. UNDERWOOD. Mr. Speaker, I rise in full support of this amendment. This amendment is necessary not only because of the profits from drugs, but because of the children who buy them and sometimes die from them. We know that there is a big drug problem in the Asia-Pacific region. There is even a big drug problem on my island of Guam. This amendment sends a message that this country will not tolerate drugs. This amendment will show that this country will not sit down while a country we help will transform the money we give to them into drugs. This amendment will show that this country will take a strong stand on drugs. This amendment is just one small step to making a big problem disappear. We may need a marathon of steps to follow, but this represents a good beginning. This amendment will make the street safer for our children here and in the Asia-Pacific region. This is why we have to thank Mr. RICHARDSON and Mr. ROHRABACHER for combining to make this amendment.

CONSTITUTIONAL AMENDMENT TO PROHIBIT PHYSICAL DESECRATION OF THE FLAG

SPEECH OF

HON. MICHAEL F. DOYLE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 29, 1995

Mr. DOYLE. Mr. Speaker, I am a proud cosponsor of House Joint Resolution 79, the resolution to protect the U.S. flag from physical desecration.

This year, we continue to commemorate anniversaries of the passage of 50 years since notable events of World War II. One of those celebrations marked the anniversary of the U.S. capture of the Japanese island Iwo Jima. Many of us can picture the famous photograph and bronze monument near Washington, D.C., and adjacent to Arlington National Cemetery. Of the many monuments, memorials, and truly powerful sights, the Iwo Jima Memorial, illustrating U.S. Marines raising the U.S. flag above a battleground covered with American casualties, has prominence in our appreciation of the flag. It was the wish of President John F. Kennedy to fly a fabric U.S. flag atop the mast being raised by the dramatic figures.

Our flag is the embodiment of our national pride. It is what we use to identify our Nation at everything from community picnics to international events such as the Olympic games. It is used to cover the caskets of those who served in our military when they are interred. We witnessed the positive expressions and use of the flag when our pilot returned safely from Bosnia. One might ask, Why should not all Americans share the same reverence and regard for the flag as those six Marines did in 1945? Not all share the same feelings. But that is exactly what the flag represents—varying opinions. And that is why I believe strongly we must protect is from desecration.

Many men and women fought to defend and protect the flag and the great Nation it represents. During our Nation's history, few objects have evoked such emotion, loyalty, and bravery. The U.S. flag is more than a fabric which flies over courthouses and post offices. It represents our beliefs, our dreams, our sense of responsibility and community. We should remember what it means to each of us today and pledge our allegiance to the principles it represents.

TRIBUTE TO THE EAST ROWAN MUSTANGS

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. COBLE. Mr. Speaker, I am pleased to announce that a team from the Sixth District, the East Rowan High School Mustangs, recently won the North Carolina 3A baseball championship. On Saturday, June 10, 1995, the East Rowan Mustangs defeated the Asheboro Comets, another Sixth District high school, in a best-of-three series to take the crown.

East Rowan capped a magnificent year with a 16-game winning streak to finish the season at 29–1. The Mustangs have been the mark of stability over the last three seasons, with 73 victories and only 8 defeats. Last season the Mustangs made it to the State semifinals before being bounced from the tournament. This year was to be different, as the team produced the first State baseball championship for East Rowan High School in 18 years.

In game one, Shawn Kelii hit a two-run single to highlight a four-run first inning, and pitchers Mike Morris and Greg Beaver combined for a five-hit shutout, as the Mustangs cruised to a 7–0 victory.

In game two, series MVP and catcher Brad Rye knocked in two runs with a single and a triple as East Rowan won by a margin of 4–0. Pitcher Russell Holshouser was instrumental as he held the Comets to just two hits for the game.

Known throughout the State as an offensive juggernaut, the East Rowan Mustangs scored more than 10 runs in 15 games this season, but clearly defense and superb pitching were instrumental in helping the team to win the championship.

On behalf of the citizens of the Sixth District of North Carolina, we offer congratulations to head coach Jeff Safrit, as well as assistant coaches Chris Cauble, Craig Hicks and Jeff Owen. Congratulations to the members of the squad: Chris McGinnis, Chad Stoner, Brian Cross, Skip Livengood, Damon Brinkley, Andy Cornelison, Jaret Doty, Russell Holshouser, David Trexler, Jason Foster, Garrett Barger, Brian Goodman, Chad Yates, Travis Goins, Greg Beaver, Brad Rye, Mike Morris, Shawn Kelii, Jeff Gobble, Kevin Barger, Andy Cauble, C.J. Moody, as well as the team managers, Amy Holshouser, and Samantha Burnette.

You are all truly deserving of your championship, and we are all proud of you. The Sixth District is proud to have the East Rowan Mustangs as North Carolina's State 3A baseball champions.

THE LAST AMERICAN FLAG OF THE SS ''JOHN LYKES''

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. WELDON of Pennsylvania. Mr. Speaker, when an American flag flies on the stern of a Merchant Marine ship for several years, that flag becomes a symbol of the values and ideals for which the Merchant Marine has fought to preserve and protect in both war and peace. But just as important, that same flag becomes a symbol for the pride, dedication, and sentiments of the seaman who served on that ship's crew for so many years. To scrap the ship, and thus to never let that flag fly again, would be a tragic dishonor to the American colors and to the patriotism of those servicemen who worked under them.

Unfortunately, Mr. Speaker, this is exactly what is happening to the SS *John Lykes.* William Steadman, a constituent from my district, recently sent me a copy of a letter to President Clinton from the captain, officers, and crew of this Merchant Marine ship which was scrapped along with 14 others in 1994. Mr. Speaker, that ship represents the culmination of 35 years of service from 87 seamen a year in the Merchant Marines. And it is only one of many in the Merchant Marine fleet that is suffering this fate. This letter from the captain and crew of the SS *John Lykes* makes a passionate plea to save the Merchant Marines. Our servicemen are pleading to us for help, and they cannot be ignored. As a member of the former Merchant Marine Committee and of the current Merchant Marine panel, I fully understand the implications of this terrible process by which the Merchant Marine, which has so faithfully served our country in war and peace, is becoming extinct. Our Federal Government is making a big mistake, and it must be stopped.

The following letter from the captain and crew of the SS *John Lykes* explains their sentiments very clearly and boldly. I urge President Clinton to listen to their message. Though it may be too late to save the SS *John Lykes*, it is our duty to our service members to keep its sister ships in the Merchant Marine faithfully serving our country, and along with them, the American flag flying proudly.

Mr. PRESIDENT: Enclosed is the last American flag flown from the stern of the SS *John Lykes.* One of the 15 Lykes ships scrapped since 1994. This American flag last flew on March 12, 1995, Port of New Orleans. It will never fly at a U.S. port again. This flag represents 35 years of U.S. citizen income taxes paid to the U.S. Government. For every tax dollar spent on cargo preference and subsidies the U.S. Government received back their investment plus 15 percent profit. For 35 years, 87 seamen a year were employed on this ship. Countless mortgages and children's tuition were paid by these seamen during those years, which would not have been possible without the flag you are now holding Mr. President. This flag has made possible the American dream for thousands of merchant seamen and their families. Now the U.S. Government and its agencies are in the process of destroying the U.S. flag fleet. Since 1776 the U.S. Government has treated American seamen with indifference in peacetime, and as a vital resource during war and conflict. Since 1776 countless abuses have been heaped on American seamen. But the American seaman has been there for his country for every conflict since then. Now the U.S. Government is on the verge of eliminating the American flag because of corporate greed, putting thousands of seamen out of work. Mr. President, we men of the U.S. merchant marine love our country and love our flag. We also know that patriotism and love of country are not emotions you are born with. They are instilled in you through the years with love from family and faith in God and Country. Mr. President, a flag that is not worth working under, is not worth fighting for, and a flag that is not worth fighting for, is not worth dying for. Mr. President, you have the bridge. You are not responsible for the incompetent policies of the past but you must fight for the American flag just as we do. The American flag will either sink or continue flying proudly on your watch. Signed, Master, Officers and Crew, SS *John Lykes.*

A GOLDEN ANNIVERSARY FOR A GOLDEN COUPLE

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 30, 1995

Mr. BARCIA. Mr. Speaker, next Friday, July 7, the friends and family of Herb and Helen

Schmidt will gather to help this wonderful couple celebrate their 50th anniversary of their marriage. And it runs in the family. Both Herb and Helen witnessed their parents celebrate their 50th anniversaries, and Herb saw his grandparents celebrate their 50th anniversary. This family tradition is so wonderful that it deserves to be trumpeted to all who can hear.

Any marriage that lasts so long must be the result of good communications, and that should be no surprise in this family since Herb Schmidt was a major voice for Michigan farm radio shows for many years. He got his start in radio from Bob Driscoll in a 1964 interview, and then later became the Farm Show Director at WBCM radio in Bay City. He also during his radio career held the microphone at WXOX. For about three decades Michigan farmers had the good fortune to have clear, concise, accurate farm news reports from award-winning broadcaster Herb Schmidt.

Herb also has been and continues to be involved with the Michigan Farm Bureau, where he has served as the Bay County Farm Bureau president. He still is heavily involved in a program that helps businessmen become familiar with farm operations so that there can be greater understanding and cooperation throughout the area. Helen was also chairperson of Bay County Farm Bureau Women, and cohosted various farm tours, including for international visitors, with Herb.

And even with all of these activities, Herb has maintained his interest in raising exotic birds, including peacocks and guinea hens. Visitors to his farm have told me of how wonderful this project has been for so long.

Through this all, Herb has had the essential support of his wife Helen. It can be tough living with a popular figure like Herb, and it is even more challenging when there are also seven children in the house to add to the daily delights. Their children are their pride and joy, and only the 16 grandchildren that have been added could make the situation any better. Helen has also been involved in many community activities, most importantly her church, as a leader and Sunday school teacher.

Mr. Speaker, I am fortunate to know Herb and Helen Schmidt, as are their many other friends. I ask you and all of our colleagues to join me in wishing them the happiest 50th anniversary.

Daily Digest
Senate

Chamber Action

Routine Proceedings, pages S9479–S9596

Measures Introduced: Nine bills and three resolutions were introduced, as follows: S. 1006–1014, and S. Res. 146–148. **Pages S9516–17**

Measures Reported: Reports were made as follows:

S. 638, to authorize appropriations for United States insular areas, with an amendment in the nature of a substitute. (S. Rept. No. 104–101)

Page S9516

Measures Passed:

Removal of Cases to Federal Court: Senate passed S. 533, to clarify the rules governing removal of cases to Federal court. **Page S9580**

Venue Provision Repeal: Senate passed S. 677, to repeal a redundant venue provision. **Page S9580**

Harry Wu Arrest: Senate agreed to S. Res. 148, expressing the sense of the Senate regarding the arrest of Harry Wu by the Government of the People's Republic of China. **Pages S9541–42, S9580–81**

U.S. Fishing Vessels: Committee on Commerce, Science, and Transportation was discharged from further consideration of H.R. 716, to amend the Fisherman's Protection Act, and the bill was then passed, after striking all after the enacting clause and inserting in lieu thereof the text of S. 267, to establish a system of licensing, reporting and regulation for vessels of the United States fishing on the high seas, after agreeing to the following amendment proposed thereto: **Pages S9552–61, S9581–92**

Dole (for Stevens/Kerry/Snowe) Amendment No. 1488, in the nature of a substitute.

Pages S9552–61, S9588–92

By unanimous-consent agreement, the reported committee amendments were withdrawn. **Page S9592**

Subsequently, S. 267 was returned to the Senate calendar. **Page S9592**

Anaktuvuk Pass Land Exchange and Wilderness Redesignation Act: Senate passed H.R. 400, to provide for the exchange of lands within Gates of the Arctic National Park and Preserve, after agreeing to a committee amendment in the nature of a substitute, and the following amendment proposed thereto: **Pages S9561–63, S9592–95**

Dole (for Murkowski) Amendment No. 1489, to establish the Alaska Peninsula Sub-Surface Consolidation. **Pages S9561–63, S9593–95**

Emergency Supplemental/Rescissions 1995: Senate began consideration of H.R. 1944, making emergency supplemental appropriations for additional disaster assistance, for anti-terrorism initiatives, for assistance in the recovery from the tragedy that occurred at Oklahoma City, and making rescissions for the fiscal year ending September 30, 1995.

Pages S9494–S9512

Comprehensive Regulatory Reform Act: Senate continued consideration of S. 343, to reform the regulatory process, with the following amendment proposed thereto: **Pages S9494, S9509**

Pending:

Dole Amendment No. 1487, in the nature of a substitute. **Page S9509**

By prior unanimous-consent agreement, the pending committee amendments were withdrawn.

Page S9509

Senate will resume consideration of the bill on Monday, July 10, 1995.

Removal of Injunction of Secrecy: The injunction of secrecy was removed from the following treaty:

The Exchange of Notes Relating to the Tax Convention with Ukraine (Treaty Doc. No. 104–11).

The treaty was transmitted to the Senate on Wednesday, June 28, 1995, considered as having been read for the first time, and referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed. **Pages S9578–79**

Authority for Committees: All committees were authorized to file executive and legislative reports during the adjournment of the Senate on Wednesday, July 5, 1995, from 10 a.m. until 2 p.m.

Page S9578

Messages From the President: Senate received the following messages from the President of the United States:

Transmitting, a draft of proposed legislation entitled "The Saving Law Enforcement Officers' Lives

Act of 1995''; to the Committee on the Judiciary. (PM–60). **Pages S9515–16**

Transmitting the report on progress concerning emigration laws and policies of the Russian Federation; referred to the Committee on Finance. (PM–61). **Page S9516**

Nominations Confirmed: Senate confirmed the following nominations:

Terrence B. Adamson, of the District of Columbia, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1997. (Reappointment)

Janie L. Shores, of Alabama, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1997.

Martin Neil Baily, of Maryland, to be a Member of the Council of Economic Advisers.

Steve M. Hays, of Tennessee, to be a Member of the Board of Directors of the National Institute of Building Sciences for a term expiring September 7, 1997.

Charles L. Marinaccio, of the District of Columbia, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1996.

Deborah Dudley Branson, of Texas, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1996.

Tony Scallon, of Minnesota, to be a Member of the Board of Directors of the National Consumer Cooperative Bank for a term of three years.

Sheila Anne Smith, of Illinois, to be a Member of the Board of Directors of the National Consumer Cooperative Bank for a term of three years.

Marianne C. Spraggins, of New York, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1997.

Edmundo A. Gonzales, of Colorado, to be Chief Financial Officer, Department of Labor.

John D. Kemp, of the District of Columbia, to be a Member of the National Council on Disability for a term expiring September 17, 1997.

Peter C. Economus, of Ohio, to be United States District Judge for the Northern District of Ohio.

Clifford Gregory Stewart, of New Jersey, to be General Counsel of the Equal Employment Opportunity Commission for a term of four years.

Carlos F. Lucero, of Colorado, to be United States Circuit Judge for the Tenth Circuit.

Wiley Y. Daniel, of Colorado, to be United States District Judge for the District of Colorado.

Diane P. Wood, of Illinois, to be United States Circuit Judge for the Seventh Circuit.

Nancy Friedman Atlas, of Texas, to be United States District Judge for the Southern District of Texas.

Stephen G. Kellison, of Texas, to be a Member of the Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for a term of four years.

Marilyn Moon, of Maryland, to be a Member of the Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for a term of four years.

Ira S. Shapiro, of Maryland, for the rank of Ambassador during his tenure of service as Senior Counsel and Negotiator in the Office of the United States Trade Representative.

George H. King, of California, to be United States District Judge for the Central District of California.

Donald C. Nugent, of Ohio, to be United States District Judge for the Northern District of Ohio.

Andrew Fois, of New York, to be an Assistant Attorney General.

Robert H. Whaley, of Washington, to be United States District Judge for the Eastern District of Washington.

Albert James Dwoskin, of Virginia, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1998.

Stephen G. Kellison, of Texas, to be a Member of the Board of Trustees of the Federal Hospital Insurance Trust Fund for a term of four years.

Stephen G. Kellison, of Texas, to be a Member of the Board of Trustees of the Federal Supplementary Medical Insurance Trust Fund for a term of four years.

Marilyn Moon, of Maryland, to be a Member of the Board of Trustees of the Federal Hospital Insurance Trust Fund for a term of four years.

Marilyn Moon, of Maryland, to be a Member of the Board of Trustees of the Federal Supplementary Medical Insurance Trust Fund for a term of four years.

Tena Campbell, of Utah, to be United States District Judge for the District of Utah.

1 Air Force nomination in the rank of general.

Nominations Received: Senate received the following nominations:

William Harrison Courtney, of West Virginia, to be Ambassador to the Republic of Georgia.

Barry Ted Moskowitz, of California, to be United States District Judge for the Southern District of California.

Stephen M. Orlofsky, of New Jersey, to be United States District Judge for the District of New Jersey.

William K. Sessions, III, of Vermont, to be United States District Judge for the District of Vermont.

Ortrie D. Smith, of Missouri, to be United States District Judge for the Western District of Missouri.

Donald C. Pogue, of Connecticut, to be a Judge of the United States Court of International Trade.

Howard Monroe Schloss, of Louisiana, to be an Assistant Secretary of the Treasury.

Ernest W. DuBester, of New Jersey, to be a Member of the National Mediation Board for a term expiring July 1, 1998.

Richard Henry Jones, of Nebraska, to be Ambassador to the Republic of Lebanon.

1 Department of Defense nomination in the rank of general. **Page S9596**

Messages From the President: **Pages S9515–16**

Messages From the House: **Page S9516**

Communications: **Page S9516**

Executive Reports of Committees: **Page S9516**

Statements on Introduced Bills: **Pages S9517–40**

Additional Cosponsors: **Pages S9540–41**

Amendments Submitted: **Pages S9542–52**

Authority for Committees: **Page S9563**

Additional Statements: **Pages S9563–78**

Adjournment: Senate convened at 9:30 a.m. and, in accordance with the provisions of S. Con. Res. 20, adjourned at 3:58 p.m., until 12 noon, on Monday, July 10, 1995.

Committee Meetings

(Committees not listed did not meet)

AUTHORIZATIONS—DEFENSE

Committee on Armed Services: On Thursday, June 29, Committee ordered favorably reported the following business items:

The nomination of Lt. Gen. Richard E. Hawley, United States Air Force, for appointment to the grade of general;

An original bill to authorize funds for fiscal year 1996 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy; and to prescribe personnel strengths for such fiscal year for the Armed Forces;

An original bill entitled ''Department of Defense Authorization Act for Fiscal Year 1996'';

An original bill entitled ''Military Construction Act for Fiscal Year 1996''; and

An original bill entitled ''Department of Energy National Security Act for Fiscal Year 1996''.

NOMINATIONS

Committee on Foreign Relations: Committee concluded hearings on the nominations of David L. Hobbs, of California, to be Ambassador to the Co-operative Republic of Guyana, and William J. Hughes, of New Jersey, to be Ambassador to the Republic of Panama, after the nominees testified and answered questions in their own behalf. Mr. Hughes was introduced by Senators Bradley and Lautenberg.

House of Representatives

Chamber Action

Bills Introduced: Twenty-five public bills, H.R. 1972–1996; and four resolutions, H.J. Res. 99, H. Con. Res. 80–81, and H. Res. 182 were introduced. **Pages H6697–98**

Reports Filed: Reports were filed as follows:

H.R. 39, to amend the Magnuson Fishery Conservation and Management Act to improve fisheries management, amended (H. Rept. 104–171).

H.R. 1976, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1995 (H. Rept. 104–172); and

H.R. 1977, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 20, 1996 (H. Rept. 104–173). **Page H6697**

Speaker Pro Tempore: Read a letter from the Speaker wherein he designates Representative Hastert to act as Speaker pro tempore for today. **Page H6659**

Journal: By a yea-and-nay vote of 305 yeas to 69 nays, with 3 voting ''present'', Roll No. 465, the House approved the Journal of Thursday, June 29. **Pages H6659–60**

Motion to Adjourn: By a yea-and-nay vote of 130 yeas to 263 nays, Roll No. 466, the House failed to agree to the Wise motion to adjourn. **Page H6660**

Medicare Select Policies: By a yea-and-nay vote of 350 yeas to 68 nays, Roll No. 467, the House agreed to the conference report on H.R. 483, to amend title XVIII of the Social Security Act to permit Medicare select policies to be offered in all States—clearing the measure for the President.

Pages H6666–75

H. Res. 180, the rule which waived points of order against the conference report, was agreed to earlier by voice vote. **Pages H6661–66**

Independence Day Work Period: By a recorded vote of 242 ayes to 157 noes, Roll No. 268, the House agreed to H. Res. 179, providing for immediate consideration of a concurrent resolution providing for adjournment of the House and Senate for the Independence Day district work period.

Pages H6676–81

Legislative Program: The Majority Leader announced the legislative program for the week of July 10. **Page H6681**

Resignations—Appointments: It was made in order that, notwithstanding any adjournment of the House until Monday, July 10, 1995, the Speaker, and the Minority leader be authorized to accept resignations and to make appointments authorized by law or by the House. **Page H6681**

Calendar Wednesday: Agreed to dispense with Calendar Wednesday business of July 12. **Page H6681**

Late Report: Committee on Appropriations received permission to have until midnight tonight to file reports on H.R. 1977, making appropriations for the Interior and related agencies for the fiscal year ending September 30, 1995; and H.R. 1976, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1996. **Page H6681**

Presidential Messages: Read the following messages from the President:

Law enforcement officers: Message wherein he transmits proposed legislation entitled ''Saving Law Enforcement Officers' Lives Act for 1995''—referred to the Committee on the Judiciary and ordered printed (H. Rept. 104–90); and

Russia Federation: Message wherein he reports that the Russian Federation is in full compliance with the freedom of emigration criteria in the Trade Act of 1974—referred to the Committee on Ways and Means and ordered printed (H. Rept. 104–91).

Pages H6681–82

Speaker Pro Tempore: Read a letter from the Speaker wherein he designates Representative Wolf to act as Speaker pro tempore to sign enrolled bill and joint resolutions through July 10, 1995.

Page H6682

Quorum Calls—Votes: Four yea-and-nay votes developed during the proceedings of the House today and appear on pages H6659–60, H6660, H6675, and H6680. There were no quorum calls.

Adjournment: Met at 10 a.m. and, pursuant to the provisions of H. Res. 179, adjourned at 4:23 p.m. until 2 p.m., on Monday, July 10, 1995.

Committee Meetings

TRANSPORTATION APPROPRIATIONS

Committee on Appropriations: Ordered reported the Transportation appropriations for fiscal year 1996.

OVERSIGHT

Committee on Commerce: Subcommittee on Energy and Power continued oversight hearings on High-Level Radioactive Waste Disposal. Testimony was heard from Daniel Dreyfus, Director, Office of Civilian Radioactive Waste Management, Department of Energy; John E. Cantlon, Chairman, Nuclear Waste technical Review Board; Robert R. Loux, Executive Director, Agency for Nuclear Projects, Nuclear Waste Project Office, State of Nevada; and public witnesses.

PENNSYLVANIA AVENUE CLOSING

Committee on Government Reform and Oversight: Subcommittee on the District of Columbia held a hearing on the Closing of Pennsylvania Avenue. Testimony was heard from the following officials of the District of Columbia: David A. Clarke, Chairman, Council; Frank Smith, Jr., member, Council; and Michael Rogers, City Administrator; Lawrence G. Reuter, General Manager, Washington Metropolitan Area Transit Authority; Robert E. Gresham, Deputy Executive Director, National Capital Planning Commission; and public witnesses.

CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY ACT

Committee on International Relations: Began markup of H.R. 927, Cuban Liberty and Democratic Solidarity Act of 1995.

Will continue July 11.

PROSECUTING FALSE STATEMENTS TO CONGRESS

Committee on the Judiciary: Subcommittee on Crime held a hearing on 18 U.S.C. 1001 and U.S. versus Hubbard: Prosecuting False Statements to Congress. Testimony was heard from Representative Martini; and public witnesses.

ECONOMIC RELATIONSHIP BETWEEN UNITED STATES AND CUBA AFTER CASTRO

Committee on Ways and Means: Subcommittee on Trade held a hearing on the Economic Relationship Between the United States and Cuba After Castro. Testimony was heard from Representatives McDermott, Burton, Torricelli, Ros-Lehtinen, Deutsch, Diaz-Balart, Menendez; and Farr; Edward Casey, Assistant Secretary, South America, Department of State; and public witnesses.

CONGRESSIONAL PROGRAM AHEAD

Week of July 3 through 8, 1995

The Senate and House of Representatives will be in adjournment.

Next Meeting of the SENATE

12 noon, Monday, July 10

Senate Chamber

Program for Monday: After the transaction of any morning business (not to extend beyond 1 p.m.), Senate will resume consideration of S. 343, Comprehensive Regulatory Reform Act.

Next Meeting of the HOUSE OF REPRESENTATIVES

2 p.m., Monday, July 10

House Chamber

Program for Monday: Consideration of the following 4 Suspensions:

1. H.R. 1642, Extending Most-Favored-Nation Status to Cambodia;

2. H.R. 1643, Extending Most-Favored-Nation Status to Bulgaria;

3. Sikes Act Improvement Amendments of 1995; and

4. S. 523, Colorado Basin Salinity Control Amendments.

Consideration of H. Res. , appointing a Member to a Standing Committee; and

Consideration of the Conference Report on H.R. 1868, Foreign Operations Appropriations Act for Fiscal Year 1996 (modified rule, 80 minutes of debate).

Extensions of Remarks, as inserted in this issue

HOUSE

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